Mr. McNARY. Does the Senator from New York [Mr. COPELAND] have the floor under the order which was made?

The VICE PRESIDENT. He would not have it until 2 o'clock, the Chair is advised by the Parliamentarian.

Mr. McNARY. Very well.

Mr. BARKLEY. I am willing to yield if any Senator desires to introduce a bill, or for business of that sort.

The VICE PRESIDENT. Does the Senator want to have the regular morning business proceeded with?

ADJOURNMENT TO THURSDAY

Mr. BARKLEY. I think we had better not do that; and that we had better abide by our understanding. Therefore I move that the Senate adjourn until 12 o'clock noon on Thursday next.

The motion was agreed to; and (at 12 o'clock and 4 minutes p. m.) the Senate adjourned until Thursday, July 22, 1937, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

TUESDAY, JULY 20, 1937

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Unto Thee, O God, do we give thanks; yea, unto Thee do we give thanks; righteous art Thou and true is Thy judgment. Teach us the way of Thy statutes and give us understanding, and may our delight be in Thy commandments. As servants and representatives of a great people, may we draw near to Thee for wisdom and fresh inspiration. Humble and grateful we are, yet wondering, we pray, that we may be very sure of our faith in Thee and in ourselves. Today give us the accent of valor, faith, and independence in our deliberations. Persuade us, our Father, of Thy divine tenderness and goodness. When problems press, when labor seems hard, help us to be calm and confident and not forget that Thou art ever near. Through Christ, our Savior. Amen.

The Journal of the proceedings of yesterday was read and approved.

ADDITIONAL COMPENSATION FOR CERTAIN EMPLOYEES OF THE HOUSE

Mr. WARREN. Mr. Speaker, I offer a privileged resolution from the Committee on Accounts (H. Res. 172) and ask for its immediate consideration.

The SPEAKER. Can the gentleman state to the Chair whether there is any opposition to the resolution?

Mr. WARREN. It is my understanding there is no controversy about this resolution, Mr. Speaker. I have talked with the minority leader and it is a unanimous report from the committee.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House Resolution 172

Resolved, That there shall be an additional assistant to the superintendent of the House press gallery to be designated as provided by the rules of the House, to be appointed by the Doorkeeper of the House, and to receive compensation at the rate of $2,400 per annum, payable from the contingent fund of the House until otherwise provided by law: *Provided*, That upon the appointment of such additional assistant the position of press gallery page at the rate of $1,920 per annum shall be vacated and no appointment shall be made to such position.

With the following committee amendments:

At the end of the resolution insert the following:

"SEC. 2. That until otherwise provided by law, the Clerk of the House be, and he is hereby, authorized and directed to pay, out of the contingent fund of the House, additional compensation per annum, payable monthly, to certain employees of the House as follows:

"To the disbursing clerk in the Clerk's office the sum of $1,040, so long as the position is held by the present incumbent.

"To the assistant disbursing clerk in the Clerk's office the sum of $780, so long as the position is held by the present incumbent.

"To the assistant enrolling clerk in the Clerk's office the sum of $720, so long as the position is held by the present incumbent.

"To the stenographer to the Clerk in the Clerk's office the sum of $520.

"SEC. 3. This resolution shall be effective as of August 1, 1937."

The SPEAKER. The question is on the amendments to the resolution.

The amendments were agreed to.

The SPEAKER. The question is on the resolution as amended.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO ADDRESS THE HOUSE

Mr. DICKSTEIN. Mr. Speaker, I ask unanimous consent that I may be permitted to address the House for 25 minutes on tomorrow after the disposition of business on the Speaker's table, after the disposition of Calendar Wednesday business, and following the remarks of the gentleman from Michigan [Mr. HOFFMAN], who, I understand, has 25 minutes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MAVERICK. Mr. Speaker, I ask unanimous consent that on Friday next, after all legislative business is concluded, I may address the House for a period of 15 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REORGANIZATION OF THE JUDICIARY

Mr. DUNN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DUNN. Mr. Speaker and Members of the House, I have placed on the Speaker's desk a petition—No. 9—to discharge the Judiciary Committee from further consideration of H. R. 4417, a bill to regulate the Supreme and other Federal courts. I would like for the Members who favor the President's Court plan to please sign the petition. It is my opinion that if the said measure would be enacted into law the common people of our country would be greatly benefited.

[Here the gavel fell.]

RECEIPTS AND EXPENDITURES OF THE GOVERNMENT

Mr. RICH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RICH. Mr. Speaker, I would like to call the attention of the House to the Treasury statement of July 14, showing that the receipts for the 14 days of this year to this time are $208,722,786 and the expenditures $402,878,666, or a deficit of $194,155,880. The principal thing I want to call to the attention of the Members is this fact: That we have now gone in the red this year over that of last year in the amount of $94,321,107. You are talking economy, and if you watch the Treasury statements daily you can see where we are putting any economy into Government, then there is something wrong between the thought you have in mind and what the Treasury statements disclose. I ask you to pay attention to them. Your increased daily expenditures this year so far has increased $6,737,000 a day over the expenditures of a year ago. You talk of a balanced Budget; you state you are for economy. You can see what you are doing. According to the Treasury statement, you are doing just the opposite. You are fooling the American people, or at least trying to do so. Why continue this policy until you wreck this Nation financially? I claim this administration is not financially sound, it never was, and I question if it ever will be. I hope, however, that you will see what it means to our Nation, that you will stop your ruthless expenditures, that you will cut out useless bureaus, consolidate departments, as you have promised the American people you would do. Our national debt is over $36,597,525,791. It cannot go much higher without serious results to our Nation.

[Here the gavel fell.]

EXTENSION OF REMARKS

Mr. O'BRIEN of Michigan. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PRIVATE CALENDAR

The SPEAKER. This is the day set apart for the consideration of private omnibus claims bills. The Chair will state that the first bill on the calendar is the omnibus immigration bill.

Mr. DICKSTEIN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DICKSTEIN. Mr. Speaker, I think I propounded a parliamentary inquiry on the last Tuesday when the private omnibus bills were on the calendar, and I want to repeat it for the assurance of Members who have items in the omnibus bills on this calendar. I think the Chair ruled that if I let the Claims Committee come in with other bills I would not lose my rights on the immigration bills.

The SPEAKER. The Chair ruled upon the gentleman's parliamentary inquiry that he lost no rights on the calendar on last Tuesday. Does the gentleman now waive the right to call up the omnibus immigration bill?

Mr. DICKSTEIN. I waive the right for today to call up that bill.

The SPEAKER. Without objection, the bill will be passed over.

Mr. COSTELLO. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Obviously a quorum is not present.

Mr. KENNEDY of Maryland. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 112]

Amlie	Edmiston	Hill, Ala.	Phillips
Anderson, Mo.	Eicher	Hoffman	Plumley
Bernard	Ellenbogen	Imhoff	Reed, N. Y.
Binderup	Englebright	Jacobsen	Rogers, Okla.
Boren	Fernandez	Jenkins, Ohio	Schuetz
Brewster	Fish	Johnson, Luther A.	Scrugham
Buckley, N. Y.	Fitzpatrick	Keller	Simpson
Caldwell	Fleger	Kelly, N. Y.	Sirovich
Cannon, Wis.	Forand	Kirwan	Smith, W. Va.
Casey, Mass.	Ford, Calif.	Kitchens	Starnes
Chandler	Fries, Ill.	Kloeb	Sullivan
Chapman	Fulmer	Kopplemann	Sweeney
Clark, Idaho	Gasque	Lambeth	Taylor, Colo.
Cole, N. Y.	Gifford	Lamneck	Taylor, Tenn.
Cox	Gilchrist	Lemke	Teigan
Cravens	Gray, Ind.	McGranery	Terry
Crosby	Greenwood	McGroarty	Thomas, N. J.
Crosser	Gregory	McMillan	Tinkham
Culkin	Hancock, N. C.	Magnuson	Voorhis
Daly	Harlan	Miller	Withrow
Driver	Harrington	Mouton	Wood
Duncan	Hartley	O'Neal, Ky.	Zimmerman
Eaton	Hendricks	Peyser	

The SPEAKER. On this roll call 339 Members have answered to their names, a quorum.

On motion of Mr. KENNEDY of Maryland, further proceedings under the call were dispensed with.

COMMITTEE ON RIVERS AND HARBORS

Mr. BEITER. Mr. Speaker, by direction of the chairman of the Committee on Rivers and Harbors, I ask unanimous consent that that committee may be permitted to hold hearings the rest of the week during sessions of the House.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PRIVATE CALENDAR

The SPEAKER. The Clerk will call the first omnibus bill on the Private Calendar.

The Clerk called the first omnibus bill of the Private Calendar, H. R. 6336, for the relief of sundry claimants, and for other purposes.

GUIDEO BISCARO, ET AL.

The Clerk read as follows:

Be it enacted, etc.—

Title I—(H. R. 886. For the relief of Guideo Biscaro, Giovanni Polin, Spironello Antonio, Arturo Bettio, Carlo Biscaro, and Antonio Vannin.) By Mr. BEITER

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Guideo Biscaro, Giovanni Polin, Spironello Antonio, Arturo Bettio, Carlo Biscaro, and Antonio Vannin the sum of $3,500, being the amount of the bond deposited with the United States Immigration Service guaranteeing the presence in court of Virginia Nasato, Melchiore Miotto, Silvio Polin, Augustino Del Bianco, Daniel Biscaro, Augustin Taveron, and Emilio Miotto, and later forfeited because of failure of the bondsmen to produce the aliens in court for deportation proceedings.

With the following committee amendments:

Page 1, line 11, strike out the word "being" and insert in lieu thereof the following: "in full settlement of all claims against the United States for the refund of."

Page 2, line 8, after the word "proceedings", add the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to.

Mr. HANCOCK of New York. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANCOCK of New York: Page 1, line 3, strike out all of title I.

Mr. HANCOCK of New York. Mr. Speaker, title I of this bill is an attempt to reimburse seven individuals for losses they sustained when bail bonds were forfeited in the deportation cases of seven aliens 12 years ago.

These losses came about, I am satisfied from reading the report, through the misconduct, negligence, or ignorance of the attorney employed by these individuals. The facts are these: In 1924 seven aliens of Italian ancestry entered this country illegally through Canada. They paid no head tax, they submitted themselves to no inspection, they had no visas, and they were not charged against the quota of their nationality. They were apprehended about a year later and released under bond of $500 each. These bonds were supplied by an attorney named Corti. With each bond he deposited $500 of Liberty bonds as collateral. Hearings were held and the men were ordered deported. The bondsman was ordered to deliver the aliens at a certain time and place for deportation. He failed to do so. In fact, he failed to do anything; he made no effort to obtain an extension of time, and I doubt whether he even notified the aliens to appear at the time and place designated. The bonds were forfeited, the collateral was forwarded to Washington, and the proceeds covered into the Treasury. Subsequently the aliens were apprehended by immigration officers and deported.

It now appears that each of the seven claimants in this bill supplied $500 of Liberty bonds to their attorney for deposit as collateral when the bail bonds were given, but the Government was no party to those transactions, and the Government had no knowledge that the bonds belonged to anyone except the bondsman who deposited them. The Federal Government never had any dealings of any kind with the claimants in the pending bill.

The sole question here is whether we should reimburse these individuals for their lost collateral. You cannot say anything more in their behalf than that their losses were sustained through the incompetence, the neglect, or the malpractice of the attorney selected by them and employed by them. The claimants apparently have a grievance against their own attorney, but none against the Federal agents. As far as the Government is concerned, its agents have proceeded exactly in accordance with the law. There was no misconduct on the part of the immigration authorities. They performed their duty as we expect them to do it, and they are entitled to our support.

Mr. DONDERO. Mr. Speaker, will the gentleman yield?

Mr. HANCOCK of New York. I yield.

Mr. DONDERO. Were there any extenuating circumstances on the part of the seven aliens to show that they were in no way to blame for the nonappearance of these aliens they bonded?

Mr. HANCOCK of New York. That does not appear definitely in the report, but it is indicated that the attorney who was also the bondsman failed to notify them. If there was any misconduct any place it was on the part of the bondsman. The question now is whether we are to reimburse these claimants because of his neglect. The immigration authorities complied with the law. The procedure took its regular course.

Mr. DONDERO. Were these seven men innocent of any wrongdoing on their own part outside of coming into the country illegally?

Mr. HANCOCK of New York. So far as I know, they were.

Mr. CRAWFORD. Will the gentleman yield?

Mr. HANCOCK of New York. I yield to the gentleman from Michigan.

Mr. CRAWFORD. Is it not a fact that these seven aliens came into this country illegally in the first place?

Mr. HANCOCK of New York. That is undisputed.

Mr. CRAWFORD. They put up a bond through Mr. Corti?

Mr. HANCOCK of New York. That is right.

Mr. CRAWFORD. When the question of their deportation came up they failed to show up?

Mr. HANCOCK of New York. That is right.

Mr. CRAWFORD. And the $3,500 was forfeited to the Department of Labor in accordance with the law?

Mr. HANCOCK of New York. Yes.

Mr. CRAWFORD. Is it not also true if we go ahead and permit the refund of $3,500 to these people we invite aliens to come into this country illegally and invite them to come in any way they can?

Mr. HANCOCK of New York. If we pass bills of this character there is very little reason for ever demanding security when an alien held on deportation charges is released. Just go ahead and release him and let the immigration authorities find him again if they can.

[Here the gavel fell.]

Mr. BEITER. Mr. Speaker, I rise in opposition to the amendment.

The purpose of the bill is to direct the Secretary of the Treasury to pay to the beneficiaries named in the bill the sum of $3,500, which represents the amount of the bonds posted by the beneficiaries guaranteeing the presence in court of Virginia Nasato, Melchiore Miotto, Silvio Polin, Augustino Del Bianco, Daniel Biscaro, Augustin Taveron, and Emilio Miotto.

The aliens were taken into custody at Akron, N. Y., in the month of August 1925. The amount of a bond required for each alien was $500. The beneficiaries in the bill posted Liberty bonds valued at $500 each, which are described in the receipts of the district director of the Immigration and Naturalization Service, dated August 29, 1925, the receipts having been made on Form 553A–1 of the Immigration and Naturalization Service. The receipts show that the bonds were received from Frank A. Corti, attorney for the beneficiaries of the bill, but on the reverse side of each Corti certified that the bonds were received from the individuals named as beneficiaries in the bill.

The bonds were to be returned to those who posted them by the Immigration and Naturalization Service upon the appearance of the aliens at the immigration office for deportation. All the aliens, with the exception of one, was deported, the excepted one having been in the country illegally and having since proceeded toward citizenship. However, the bond posted for the latter is also forthcoming. The attorney engaged by the bondsmen to represent them failed to notify them of the appearance of the aliens, and therefore they failed to call at the immigration office on the appointed date. The following day they were taken into custody by authorities of the Immigration and Naturalization Service from Black Rock.

Payment of the bonds has been withheld for approximately 12 years, and it has inflicted great hardships on the bondsmen, some of whom were obliged to seek aid from the welfare authorities.

Proof that the aliens and bondsmen were not notified by their legal counsel to appear at the immigration office at the appointed time is on file with the committee in the form of sworn statements from the employers of the aliens to the effect that they were at work at the time they should have appeared at the immigration office. These statements were made by members of the Beaver Products Co. and the Universal Gypsum & Lime Co., of Buffalo, in which firms the aliens were employed.

Mr. HANCOCK of New York. Will the gentleman yield?

Mr. BEITER. I yield to the gentleman from New York.

Mr. HANCOCK of New York. That particular endorsement was a memorandum put on there by the attorney himself. There is no evidence to the effect that that was brought to the attention of the immigration officials.

Mr. BEITER. The evidence has been subsequently submitted to the committee in affidavit form.

Mr. HANCOCK of New York. The immigration officials had no knowledge of these bonds belonging to anyone other than the men who deposited them. The attorney for the Labor Department suggests that the Labor Department had no knowledge that these belonged to anyone except the people themselves.

Mr. BEITER. The bonds were endorsed by the attorney.

Mr. HANCOCK of New York. That is true; but not by these claimants.

Mr. BEITER. The bonds were to be returned to those who posted them.

Mr. ROBSION of Kentucky. Will the gentleman yield?

Mr. BEITER. I yield to the gentleman from Kentucky.

Mr. ROBSION of Kentucky. Are these seven aliens in the country today?

Mr. BEITER. No. Six of the aliens have been deported, and one has become a citizen. The injustice of the whole matter is that the men who posted the bonds are the innocent sufferers, because the attorney failed to notify them. We have affidavits to the effect that on the following day deportation agents went to the plant where the aliens were employed and apprehended them. The authorities took these aliens into custody and deported them.

Mr. ROBSION of Kentucky. Were they immediately deported?

Mr. BEITER. You may say the only redress is through the attorney, but the attorney in this town has done nothing and will do nothing in the matter. They cannot get anything from him. It does not cost the Federal Government one penny to return these bonds. In many cases the men who posted the bonds are now on the relief rolls and could be immediately taken from the relief rolls and would be able to use this money. There would be a saving to the Federal Government. As I stated, it does not cost the Federal Government one single penny. I am only asking the return of this money to the rightful owners.

Mr. HANCOCK of New York. The gentleman states it does not cost the Federal Government a penny.

Mr. BEITER. Yes.

Mr. HANCOCK of New York. The proceeds of these bonds were covered into the Treasury 12 years ago and we are now asked to appropriate $3,500.

Mr. BEITER. The money belonged to these bondsmen. What right has the Government to spend this money?

Mr. HANCOCK of New York. Why, the bonds were properly forfeited. There was nothing irregular in the Immigration Department. They simply pursued the regular course.

Mr. BEITER. I grant that, but understand that on the following day they came to the plant and arrested these men.

Mr. HANCOCK of New York. It was necessary for the immigration officials to go out and apprehend them.

Mr. BEITER. That is true. The bondsmen did not produce the aliens, but the reason the bondsmen did not produce the aliens was because the attorney failed to notify them that the Government had commanded their appearance in court. Had they any intention of trying to evade deportation proceedings or skip out of the country they certainly would not have been working there at the plant where they were apprehended.

Mr. HANCOCK of New York. These claimants have their remedy against the attorney.

Mr. BEITER. I grant that, if the attorney had anything to seize, but the attorney has no assets.

Mr. DONDERO. Will the gentleman yield?

Mr. BEITER. I yield to the gentleman from Michigan.

Mr. DONDERO. What can the gentleman say to the House as to the illegal entry of these seven men into the United States?

Mr. BEITER. It is true the men entered illegally without proper visas and without paying the proper head tax. I am not arguing that. I am arguing for the men who posted the bonds for the appearance of these aliens, who are the real sufferers. Six of the aliens have been deported and the other one has become a citizen.

Mr. KERR. Will the gentleman yield?

Mr. BEITER. I yield to the gentleman from North Carolina.

Mr. KERR. There was no fraud on the part of these aliens in not answering the mandate of the court?

Mr. BEITER. No.

Mr. KERR. It was simply a mistake on their part.

Mr. BEITER. That is true, although it could not exactly be described as a mistake; rather it was a case of ignorance, since they knew nothing of the deportation order.

[Here the gavel fell.]

Mr. BEITER. Mr. Speaker, I ask unanimous consent to proceed for 1 additional minute in order to answer a question.

The SPEAKER. Under the rule covering the consideration of these bills, 5 minutes on each side is the limit for debate.

Mr. CRAWFORD. Mr. Speaker, I move to strike out the last word.

The SPEAKER. Under the rule the Chair cannot entertain that motion.

The question is on the amendment of the gentleman from New York [Mr. HANCOCK].

The question was taken; and on a division (demanded by Mr. HANCOCK of New York) there were—ayes 48, noes 77.

Mr. CARTER. Mr. Speaker, I object to the vote on the ground a quorum is not present.

The SPEAKER. The Chair will count. [After counting.] One hundred and ninety-nine Members are present, not a quorum.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 141, nays 159, answered "present" 1, not voting 130, as follows:

[Roll No. 113]

YEAS—141

Allen, Ill.	Cooley	Hancock, N. Y.	McGrath
Allen, La.	Cooper	Hoffman	McLaughlin
Andresen, Minn.	Costello	Holmes	McLean
Andrews	Cravens	Hope	McReynolds
Arends	Crawford	Hunter	Maas
Bacon	Creal	Jarrett	Mahon, S. C.
Barden	Crowe	Jenks, N. H.	Mahon, Tex.
Bates	Crowther	Johnson, Luther A.	Mapes
Biermann	Culkin	Johnson, W. Va.	Martin, Mass.
Boehne	Dirksen	Kinzer	Massingale
Boren	Ditter	Kniffin	May
Buck	Douglas	Knutson	Michener
Buckler, Minn.	Dowell	Kocialkowski	Millard
Bulwinkle	Doxey	Lambertson	Mitchell, Ill.
Burdick	Elliott	Lanham	Mitchell, Tenn.
Carter	Engel	Larrabee	Moser, Pa.
Case, S. Dak.	Flannery	Lewis, Colo.	Mott
Chapman	Fletcher	Long	Nelson
Church	Ford, Miss.	Lord	O'Brien, Mich.
Clason	Gearhart	Lucas	Oliver
Cluett	Green	Luce	Owen
Cochran	Gregory	Luckey, Nebr.	Palmisano
Collins	Gwynne	Luecke, Mich.	Patterson
Colmer	Halleck	McFarlane	Pearson
Pettengill	Sauthoff	Taber	Welch
Polk	Schaefer, Ill.	Taylor, S. C.	Whelchel
Rankin	Scott	Thomas, Tex.	White, Ohio
Reece, Tenn.	Seger	Thompson, Ill.	Wigglesworth
Reed, Ill.	Sheppard	Thurston	Williams
Rich	Smith, Maine	Tobey	Wolcott
Richards	Snell	Treadway	Wolfenden
Robsion, Ky.	Snyder, Pa.	Turner	Wolverton
Rogers, Mass.	South	Umstead	Woodruff
Romjue	Spence	Vinson, Fred M.	
Rutherford	Stefan	Warren	
Sanders	Swope	Wearin	

NAYS—159

Aleshire	Doughton	Kennedy, N. Y.	Poage
Allen, Del.	Drew, Pa.	Kenney	Powers
Allen, Pa.	Drewry, Va.	Keogh	Rabaut
Ashbrook	Dunn	Kerr	Ramsay
Atkinson	Eberharter	Kleberg	Ramspeck
Barry	Eckert	Kramer	Rees, Kans.
Beiter	Evans	Kvale	Rigney
Bell	Farley	Lamneck	Robertson
Bigelow	Ferguson	Lanzetta	Robinson, Utah
Bland	Fitzgerald	Leavy	Sabath
Bloom	Ford, Calif.	Lesinski	Sacks
Boileau	Frey, Pa.	Lewis, Md.	Sadowski
Boland, Pa.	Gambrill	Ludlow	Schneider, Wis.
Boyer	Garrett	McAndrews	Schulte
Bradley	Gehrmann	McCormack	Secrest
Brown	Gildea	McGehee	Shanley
Carlson	Gingery	Mansfield	Shannon
Cartwright	Goldsborough	Martin, Colo.	Smith, Va.
Celler	Greever	Mason	Smith, Wash.
Citron	Guyer	Maverick	Sparkman
Clark, N. C.	Hamilton	Mead	Stack
Claypool	Harrington	Meeks	Steagall
Coffee, Nebr.	Hart	Merritt	Sumners, Tex.
Coffee, Wash.	Havenner	Mills	Sutphin
Colden	Healey	Murdock, Ariz.	Tarver
Cullen	Hildebrandt	Murdock, Utah	Thom
Cummings	Hill, Wash.	O'Brien, Ill.	Thomason, Tex.
Deen	Hobbs	O'Connell, R. I.	Tolan
Delaney	Honeyman	O'Connor, Mont.	Towey
Dempsey	Hook	O'Connor, N. Y.	Transue
DeMuth	Houston	O'Day	Vinson, Ga.
DeRouen	Hull	O'Leary	Wallgren
Dickstein	Izac	O'Neill, N. J.	Walter
Dies	Jarman	O'Toole	Wene
Dingell	Jenckes, Ind.	Pace	West
Disney	Johnson, Okla.	Patman	Whittington
Dixon	Jones	Patton	Wilcox
Dockweiler	Kee	Peterson, Fla.	Wood
Dondero	Kelly, N. Y.	Peterson, Ga.	Woodrum
Dorsey	Kennedy, Md.	Pierce	

ANSWERED "PRESENT"—1

Fish

NOT VOTING—130

Amlie	Englebright	Johnson, Minn.	Randolph
Anderson, Mo.	Faddis	Keller	Rayburn
Arnold	Fernandez	Kelly, Ill.	Reed, N. Y.
Beam	Fitzpatrick	Kirwan	Reilly
Bernard	Flannagan	Kitchens	Rogers, Okla.
Binderup	Fleger	Kloeb	Ryan
Boykin	Forand	Kopplemann	Schuetz
Boylan, N. Y.	Fries, Ill.	Lambeth	Scrugham
Brewster	Fuller	Lea	Shafer, Mich.
Brooks	Fulmer	Lemke	Short
Buckley, N. Y.	Gasque	McClellan	Simpson
Burch	Gavagan	McGranery	Sirovich
Byrne	Gifford	McGroarty	Smith, Conn.
Caldwell	Gilchrist	McKeough	Smith, W. Va.
Cannon, Mo.	Gray, Ind.	McMillan	Somers, N. Y.
Cannon, Wis.	Gray, Pa.	McSweeney	Starnes
Casey, Mass.	Greenwood	Magnuson	Sullivan
Champion	Griffith	Maloney	Sweeney
Chandler	Griswold	Miller	Taylor, Colo.
Clark, Idaho	Haines	Mosier, Ohio	Taylor, Tenn.
Cole, Md.	Hancock, N. C.	Mouton	Telgan
Cole, N. Y.	Harlan	Nichols	Terry
Cox	Harter	Norton	Thomas, N. J.
Crosby	Hartley	O'Connell, Mont.	Tinkham
Crosser	Hendricks	O'Malley	Vincent, B. M.
Curley	Hennings	O'Neal, Ky.	Voorhis
Daly	Higgins	Parsons	Wadsworth
Driver	Hill, Ala.	Patrick	Weaver
Duncan	Hill, Okla.	Peyser	White, Idaho
Eaton	Imhoff	Pfeifer	Withrow
Edmiston	Jacobsen	Phillips	Zimmerman
Eicher	Jenkins, Ohio	Plumley	
Ellenbogen	Johnson, Lyndon	Quinn	

So the amendment was rejected.

Mr. BOLAND, Mr. MEAD, Mr. HILDEBRANDT, Mr. HOUSTON, Mr. HAMILTON, and Mr. BEITER changed their votes from "yea" to "nay."

Mr. REES of Kansas and Mr. RANKIN changed their votes from "nay" to "yea."

The Clerk announced the following pairs:

On this vote:

Mr. Thomas of New Jersey (for) with Mr. Sullivan (against).
Mr. Eaton (for) with Mr. Buckley of New York (against).
Mr. Short (for) with Mr. Daly (against).

Mr. Gifford (for) with Mr. Byrne (against).
Mr. Jenkins of Ohio (for) with Mr. Gavagan (against).
Mr. Cole of New York (for) with Mr. Bernard (against).
Mr. Reed of New York (for) with Mr. Curley (against).
Mr. Plumley (for) with Mr. Withrow (against).
Mr. Hartley (for) with Mr. Fitzpatrick (against).
Mr. Taylor of Tennessee (for) with Mr. Teigan (against).
Mr. Wadsworth (for) with Mr. Kelly of Illinois (against).
Mr. Tinkham (for) with Mr. Johnson of Minnesota (against).
Mr. Simpson (for) with Mr. Kopplemann (against).
Mr. Englebright (for) with Mr. Pfeifer (against).

General pairs:

Mr. Cox with Mr. Gilchrist.
Mr. Fuller with Mr. Brewster.
Mr. Cannon of Missouri with Mr. Shafer of Michigan.
Mr. Hancock of North Carolina with Mr. Lemke.
Mr. Burch with Mr. Amlie.
Mr. Hennings with Mr. Casey of Massachusetts.
Mr. Cole of Maryland with Mr. Beam.
Mr. Parsons with Mr. Greenwood.
Mr. McSweeney with Mr. Bell.
Mr. Crosser with Mr. Reilly.

The result of the vote was announced as above recorded.

The Clerk read as follows:

Title II—(H. R. 1025. To confer jurisdiction on the Court of Claims to hear, determine, and render judgment upon the claims of the Italian Star Line, Inc., against the United States.) By Mr. DELANEY

That jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment upon, notwithstanding the lapse of time or any provision of law to the contrary, the claims of the Italian Star Line, Inc., (1) for damages arising from breach of a charter sales agreement for the purchase of a steamship (*Liberty Land*) entered into on April 26, 1920, between said corporation and the United States (acting through the United States Shipping Board and the United States Shipping Board Emergency Fleet Corporation), and (2) as if the United States were sueable in tort, for damages for abuse of process, malicious prosecution, and unlawful appointment of a receiver (based on the prosecution of receivership proceedings against the Italian Star Line, Inc., begun in the United States District Court, Southern District of New York, in December 1920, and a criminal prosecution of said corporation for conspiracy to defraud the United States, begun in the said district court in February 1921). The Court of Claims shall not have jurisdiction under this act unless the said corporation files a petition setting forth their claims for such damages in such court within after the date of exactment of this act. The Court of Claims shall hear, determine, and render judgment on such claims without prejudice by reason of the failure of the claimant to receive redress in respect of such claims in court actions heretofore instituted by such claimant. The Court of Claims shall, if it render judgment for the claimant, allow interest on the amount of damages found, at the rate prescribed by law at the time of such allowance in cases of judgment against the United States from the time such damages were sustained until the judgment is paid. Review of such judgment may be had by either party in the same manner as is provided by law in other causes in such court.

SEC. 2. There is authorized to be appropriated such sum as may be necessary to pay the amount of any judgment rendered and interest allowed pursuant to this act. The amount of such judgment and the interest allowed shall be paid by the Secretary of the Treasury upon presentation of a duly authenticated copy of the judgment of the Court of Claims.

The SPEAKER. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 3, line 2, beginning with the "(1)" strike out the rest of line 2 and all down to and including line 15 and insert the following: "for loss or damage to said Italian Star Line, Inc., arising out of the negotiations, transactions, and litigation, both criminal and civil, had with the United States, the United States Shipping Board, and the United States Shipping Board Emergency Fleet Corporation, concerning the steamship *Liberty Land*, including amounts paid to the United States, the United States Shipping Board, and the United States Shipping Board Emergency Fleet Corporation for the steamship *Liberty Land*, and other assets including goodwill: *Provided, however*, That the Court of Claims shall not consider prospective profits and losses in proceedings or actions had under this act."

Page 4, line 6, after the word "within", insert "1 year."

Page 4, line 11, after the word "claimant", strike out the remainder of the bill.

The committee amendments were agreed to.

Mr. COSTELLO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Page 2, beginning in line 17, strike out all of title II.

Mr. COSTELLO. Mr. Speaker, the amendment which I have offered would strike from this omnibus bill all of title II.

This bill is for the benefit of the Italian Star Line, Inc., which is a shipping company organized in 1919 to engage in the merchant shipping business. The company entered into a contract with the United States Shipping Board on April 26, 1920, to purchase the ship *Liberty Land*, a vessel of 7,800 deadweight tons. The purchase price was approximately $1,500,000, to be paid on a 10-year deferred-payment basis. The contract was the standard contract used in all such cases.

The vessel was delivered on April 28, 1920, and the first monthly charter-hire payment was made, amounting to $39,125. In addition, a down payment of $41,920 was made, as were also the two payments for May and June of $39,125.

The company was not financially successful. It met with difficulties from the start and every operation was unprofitable. The company entered into negotiations with the Shipping Board to try to reduce the terms of its contract, which the Shipping Board failed to do, insisting upon the payment of the full price. As a result of three voyages, the total loss on operations to the company was $129,781.93. Of this amount, the company owed the Shipping Board $114,863.76. The company had $60,000 cash on hand, but refused to pay any of this money to the Shipping Board. However, the directors then did declare a dividend to their stockholders.

At that time the stockholders brought a suit to appoint a receiver. One of the stockholders attached $30,000 of the company's funds. On December 6 the Shipping Board came in and brought suit to have a receiver appointed. With the consent of the attorney for the company, a receiver was appointed.

This bill would authorize the company to go to the Court of Claims and sue for damages. I call the attention of the House to the fact that in 1930 at least two, if not three, suits were brought in the Court of Claims against the Government. In one case a judgment of $104,000 was won, but on a motion to dismiss that action, because the jury finding was not in keeping with the facts, the court did dismiss the action. In each case the shipping company has had the action dismissed on motion. Now, you are asked to allow them to go back to the Court of Claims, first, to sue for damages arising from a breach of the contract to purchase, a breach, mind you, alleged to be by the Shipping Board, when it was clearly shown by the books of the company that the company itself was financially unable to carry out the terms of its original contract, due to bad shipping conditions in the country; and, secondly, to seek to collect damages for abuse of process, malicious prosecution, and the unlawful appointment of a receiver.

I call to your attention the fact that 3 days before the Shipping Board sued, the stockholders had brought an action for the appointment of a receiver; one stockholder had attached the funds of the company. It was not until 3 days later that the Shipping Board, to protect its own rights, came in and demanded the appointment of a receiver. At the time the receiver was asked for, the company was actually indebted to the United States Shipping Board in the sum of $114,000. There is a statement in the committee report, on page 8, which would indicate that the company had some very large assets on hand. However, if you will notice, one of these assets consists of cargo contracts unexecuted, for which a value of $120,000 is shown, and another asset is goodwill, $153,000. This was a company organized solely for the purchase of a Government ship, and the operations of the company had all been at a loss. How they could compute goodwill at $153,000, I do not know.

Mr. Speaker, I ask that the Members vote "yea" on this amendment to strike out the title.

[Here the gavel fell.]

Mr. DELANEY. Mr. Speaker, I rise in opposition to the amendment of the gentleman from California.

As the gentleman from California has stated, this line was incorporated in 1919 for the purpose of encouraging the merchant marine. The company was formed under the laws of Delaware. At that time there were about 4,000 stockholders, all of whom were poor Italians, who each subscribed in good faith to a certain amount of the stock of this company.

This matter goes back to the time when the Shipping Board was more or less controlled by a combination, because, as the report clearly shows, after the investigation of charges

against the admiralty counsel his brother-in-law was removed as attorney for the receivers in all of the steamship company cases and the admiralty counsel was removed from his office. Furthermore, the trial of this matter lasted for 9 days. The jury deliberated for a few hours, giving a verdict in favor of the plaintiff for $105,000. On the 31st day of March Judge Cox set the jury's verdict aside and dismissed the complaint.

This is simply a matter of permitting these people in good faith to go into the court and have their case adjudicated by the Court of Claims. This is not an appropriation nor an authorization, but simply permission to go into court and present their case and have the court decide what the equities are and have the matter finally decided.

The bill has been amended by the Claims Committee and apparently has met with the approval of the Claims Committee, because they voted it out unanimously. I believe the gentleman from California [Mr. COSTELLO] again appeared before the committee and presented his side of the case and also his objection to allowing them to go to the Court of Claims. I am informed that after hearing his objections the Claims Committee again decided to report the bill unanimously.

It seems to me, Mr. Speaker, in view of the fact that all these people want is simple justice in being allowed to go into court and present their case, the motion should be voted down.

As the chairman of the Claims Committee has indicated in his report, this is purely a jurisdictional matter. It is a matter of giving them an opportunity to be heard and giving them what we believe is only justice. As I have said, the objections of the gentleman from California [Mr. COSTELLO] were again overruled by the Claims Committee, and a vote of "yes" on this motion will mean you are denying these people the right to go into court and have these claims adjusted or adjudicated, while a vote of "no" means that we are willing to give these people an opportunity to go into court and have their case heard, and we will rest upon their decision.

Mr. REES of Kansas. Mr. Speaker, will the gentleman yield for a question?

Mr. DELANEY. I yield.

Mr. REES of Kansas. If a judgment is rendered in their favor, however, who will pay the judgment?

Mr. DELANEY. Who will pay the judgment?

Mr. REES of Kansas. Yes; if the court decides that a judgment should be allowed?

Mr. DELANEY. This money has already been paid into the United States Government, and because of the fact that there was so much dispute about the matter at the time—in other words, a sort of combination in the Shipping Board of people associated with the Board who allowed their brothers-in-law or their relatives to become involved in the matter and be appointed receivers through influence exerted at that time—this simply involves money paid to the United States Government, and the Court of Claims is going to decide whether or not the United States Government is justified in returning this money or not.

Mr. REES of Kansas. Will it not take further legislation, then, to turn the money over to them?

Mr. DELANEY. I do not believe the gentleman would want to have the Government owe anybody a just amount of money without paying it. The Court of Claims will decide on the merits of the case; and if they find for the plaintiffs, the Treasury will be ordered to pay the amount decided upon.

[Here the gavel fell.]

The SPEAKER. The question is on the amendment offered by the gentleman from California [Mr. COSTELLO] to strike out the title.

The question was taken; and on a division (demanded by Mr. COSTELLO) there were—ayes 56, noes 57.

Mr. COSTELLO. Mr. Speaker, I object to the vote on the ground there is not a quorum present.

The SPEAKER. Evidently there is not a quorum present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 120, nays 186, not voting 125, as follows:

[Roll No. 114]

YEAS—120

Aleshire	Dowell	Lamneck	Reed, Ill.
Allen, Ill.	Eckert	Larrabee	Rees, Kans.
Allen, La.	Elliott	Lewis, Colo.	Rich
Andresen, Minn.	Engel	Lewis, Md.	Robsion, Ky.
Arends	Englebright	Lord	Rogers, Mass.
Bacon	Faddis	Luce	Rutherford
Barden	Fish	Luckey, Nebr.	Sauthoff
Bates	Fletcher	McLean	Seger
Bigelow	Ford, Miss.	McReynolds	Sheppard
Binderup	Garrett	McSweeney	Smith, Maine
Boehne	Gearhart	Mahon, Tex.	Snell
Buck	Gildea	Mapes	Stefan
Buckler, Minn.	Green	Martin, Colo.	Taber
Cannon, Mo.	Gwynne	Martin, Mass.	Taylor, S. C.
Carter	Halleck	May	Thurston
Case, S. Dak.	Hancock, N. Y.	Michener	Tobey
Church	Havenner	Millard	Transue
Cluett	Hendricks	Mills	Treadway
Cochran	Hobbs	Mitchell, Ill.	Turner
Coffee, Nebr.	Hope	Moser, Pa.	Umstead
Colden	Hull	Mott	Vinson, Fred M.
Colmer	Jarrett	Nelson	Voorhis
Cooley	Jenks, N. H.	Nichols	Warren
Cooper	Johnson, Okla.	Patterson	White, Ohio
Costello	Johnson, Luther A.	Pearson	Whittington
Crawford	Jones	Pettengill	Wigglesworth
Dirksen	Kinzer	Pierce	Wolcott
Ditter	Kniffin	Polk	Wolfenden
Dondero	Knutson	Powers	Wood
Douglas	Kocialkowski	Rankin	Woodruff

NAYS—186

Allen, Del.	Evans	Lea	Richards
Allen, Pa.	Farley	Leavy	Rigney
Andrews	Ferguson	Lesinski	Robertson
Arnold	Fitzgerald	Long	Robinson, Utah
Ashbrook	Ford, Calif.	Ludlow	Romjue
Barry	Frey, Pa.	Luecke, Mich.	Sabath
Beam	Gambrill	McAndrews	Sacks
Beiter	Gavagan	McCormack	Sadowski
Bell	Gehrmann	McFarlane	Sanders
Biermann	Goldsborough	McGehee	Schaefer, Ill.
Bland	Gray, Pa.	McGrath	Schneider, Wis.
Bloom	Greever	McKeough	Schulte
Boileau	Gregory	McLaughlin	Scott
Boland, Pa.	Griffith	Maas	Secrest
Boyer	Griswold	Mahon, S. C.	Shafer, Mich.
Boykin	Hamilton	Maloney	Shanley
Bradley	Harlan	Maverick	Shannon
Brooks	Harrington	Mead	Smith, Conn.
Brown	Hart	Meeks	Smith, Wash.
Bulwinkle	Harter	Merritt	South
Burdick	Healey	Murdock, Ariz.	Sparkman
Byrne	Hennings	Murdock, Utah	Spence
Celler	Higgins	O'Brien, Ill.	Stack
Chapman	Hildebrandt	O'Connell, R. I.	Steagall
Citron	Hill, Wash.	O'Connor, Mont.	Sutphin
Claypool	Holmes	O'Connor, N. Y.	Swope
Coffee, Wash.	Honeyman	O'Day	Tarver
Cole, Md.	Hook	O'Leary	Thom
Collins	Houston	O'Neill, N. J.	Thomas, Tex.
Cox	Hunter	O'Toole	Thomason, Tex.
Cravens	Izac	Oliver	Tolan
Crowe	Jarman	Owen	Towey
Cullen	Jenckes, Ind.	Pace	Wallgren
Cummings	Johnson, Minn.	Palmisano	Walter
Delaney	Johnson, W. Va.	Patman	Wearin
Dempsey	Kee	Patrick	Weaver
DeMuth	Kelly, Ill.	Patton	Welch
Dickstein	Kennedy, Md.	Peterson, Fla.	Wene
Dies	Kennedy, N. Y.	Peterson, Ga.	West
Dingell	Kenney	Pfeifer	Whelchel
Dockweiler	Keogh	Poage	White, Idaho
Dorsey	Kerr	Rabaut	Wilcox
Doughton	Kleberg	Ramsay	Williams
Drew, Pa.	Kramer	Ramspeck	Wolverton
Drewry, Va.	Kvale	Randolph	Woodrum
Dunn	Lanham	Reece, Tenn.	
Eberharter	Lanzetta	Reilly	

NOT VOTING—125

Amlie	Chandler	Dixon	Fuller
Anderson, Mo.	Clark, Idaho	Doxey	Fulmer
Atkinson	Clark, N. C.	Driver	Gasque
Bernard	Clason	Duncan	Gifford
Boren	Cole, N. Y.	Eaton	Gilchrist
Boylan, N. Y.	Creal	Edmiston	Gingery
Brewster	Crosby	Elcher	Gray, Ind.
Buckley, N. Y.	Crosser	Ellenbogen	Greenwood
Burch	Crowther	Fernandez	Guyer
Caldwell	Culkin	Fitzpatrick	Haines
Cannon, Wis.	Curley	Flannagan	Hancock, N. C.
Carlson	Daly	Flannery	Hartley
Cartwright	Deen	Fleger	Hill, Ala.
Casey, Mass.	DeRouen	Forand	Hill, Okla.
Champion	Disney	Fries, Ill.	Hoffman

Imhoff	McMillan	Plumley	Sumners, Tex.
Jacobsen	Magnuson	Quinn	Sweeney
Jenkins, Ohio	Mansfield	Rayburn	Taylor, Colo.
Johnson, Lyndon	Mason	Reed, N. Y.	Taylor, Tenn.
Keller	Massingale	Rogers, Okla.	Teigan
Kelly, N. Y.	Miller	Ryan	Terry
Kirwan	Mitchell, Tenn.	Schuetz	Thomas, N. J.
Kitchens	Mosier, Ohio	Scrugham	Thompson, Ill.
Kloeb	Mouton	Short	Tinkham
Kopplemann	Norton	Simpson	Vincent, B. M.
Lambertson	O'Brien, Mich.	Sirovich	Vinson, Ga.
Lambeth	O'Connell, Mont.	Smith, Va.	Wadsworth
Lemke	O'Malley	Smith, W. Va.	Withrow
Lucas	O'Neal, Ky.	Snyder, Pa.	Zimmerman
McClellan	Parsons	Somers, N. Y.	
McGranery	Peyser	Starnes	
McGroarty	Phillips	Sullivan	

So the amendment was rejected.

The Clerk announced the following additional pairs:

Mr. Sullivan with Mr. Thomas of New Jersey.
Mr. Driver with Mr. Eaton.
Mr. Fuller with Mr. Reed of New York.
Mr. Crosser with Mr. Short.
Mr. Greenwood with Mr. Wadsworth.
Mr. Boylan of New York with Mr. Guyer.
Mr. Hancock of North Carolina with Mr. Crowther.
Mr. Flannagan with Mr. Carlson.
Mr. McMillan with Mr. Plumley.
Mr. Burch with Mr. Gilchrist.
Mr. Parsons with Mr. Cole of New York.
Mr. Hill of Alabama with Mr. Simpson.
Mr. Fitzpatrick with Mr. Hoffman.
Mr. Starnes with Mr. Lambertson.
Mr. Taylor of Colorado with Mr. Tinkham.
Mr. Woodrum with Mr. Hartley.
Mr. Miller with Mr. Jenkins of Ohio.
Mr. Clark of North Carolina with Mr. Brewster.
Mr. Mansfield with Mr. Gifford.
Mr. Rayburn with Mr. Taylor of Tennessee.
Mr. Smith of Virginia with Mr. Clason.
Mr. Vinson of Georgia with Mr. Mason.
Mr. Sumners of Texas with Mr. Culkin.
Mr. McClellan with Mr. Lemke.
Mr. Ellenbogen with Mr. Withrow.
Mr. Fulmer with Mr. Teigan.
Mr. Gasque with Mr. Bernard.
Mr. Sirovich with Mr. Amlie.

The result of the vote was announced as above recorded.

Mr. COSTELLO. Mr. Speaker, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Page 2, beginning in line 24, after the word "time", strike out "or any provision of law to the contrary."

Mr. KENNEDY of Maryland. Mr. Speaker, that amendment is agreeable to the committee.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. COSTELLO. Mr. Speaker, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Page 3, line 18, strike out the words "litigation, both criminal and civil" and insert "civil litigation."

Mr. DELANEY. Mr. Speaker, that amendment is agreeable to the committee.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. COSTELLO. Mr. Speaker, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 4, line 3, strike out the word "act" and insert "act: *Provided further*, That the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation may be entitled to file any or all counterclaims which the Government may have: *And provided further*, That the Government in presenting testimony is hereby authorized to introduce the testimony given in the New York trial of those witnesses now deceased."

The SPEAKER. The question is on agreeing to the amendment.

Mr. DELANEY. Mr. Speaker, the amendment is agreeable to the committee.

The amendment was agreed to.

The SPEAKER. The Clerk will report the next title to the bill.

The Clerk read as follows:

Title III—(H. R. 1252. For the relief of Ellen Kline.) By Mr. THOMASON of Texas

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Ellen Kline, widow of Lewis R. Kline, the sum of $10,000 as remuneration for the death of said Lewis R. Kline, which it is claimed was occasioned by the negligence of the Reclamation Service.

With the following committee amendment:

Page 5, line 5, strike out "to Ellen Kline, widow of Lewis R. Kline, the sum of $10,000 as remuneration for the death of said Lewis R. Kline, which it is claimed was occasioned by the negligence of the Reclamation Service" and insert in lieu thereof the following: "to Ellen Kline, of El Paso, Tex., the sum of $5,000 in full satisfaction of her claim against the United States for the death of her husband, Lewis R. Kline, on July 1, 1918, by the explosion of an unemptied acetylene gas tank owned by the Bureau of Reclamation, Interior Department, and delivered to him as an empty tank for refilling along with other empty tanks: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The SPEAKER pro tempore (Mr. O'CONNOR of New York). The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. COSTELLO. Mr. Speaker, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Page 5, strike out all of title III.

Mr. COSTELLO. Mr. Speaker, this bill would authorize the payment of $5,000 to Ellen Kline because of the death of her husband Lewis R. Kline, who was killed, as alleged here in the bill, through the negligence of the Reclamation Service. The Reclamation Service in El Paso, Tex., purchased from the El Paso Headlight Co. acetylene gas in these small acetylene tanks. When the tanks were empty, Mr. Kline, who was the owner of the El Paso Headlight Co., would call at the office of the Reclamation Service and collect the tanks and take them back to his company for refilling. On July 1, 1918, Mr. Kline and his son called to pick up empty tanks. As I recall, two tanks were taken on this occasion and placed on the truck and returned to the company. It appeared to be a rather hot day.

There is some doubt as to the testimony in this one particular. It is not clear whether the empty tanks when stored at the Reclamation Service were stored in the sun or were transported in the truck in the sun or whether on their arrival at El Paso Headlight Co.'s plant, were left out in the sun. At any rate, the tanks became quite heated, which caused an expansion of the gas, and on the opening of one tank for the purpose of draining off what little gas there might be remaining, the tank exploded, and that explosion caused the death of Mr. Kline. The question is raised whether the tank was full or empty. Claimants contend this tank was full at the time it was taken away from the Reclamation Service. However, there is testimony that shows that the tanks were tested by Mr. Kline before they were placed on the truck, and there was only a small quantity of gas in each of these two tanks.

That is one of the items of dispute. The Department of the Interior takes the position that there is no responsibility on their part, alleging that Mr. Kline should have used due caution and care in handling the tanks, and that in view of the fact they were tested at the Reclamation office before they were taken away, he was, therefore, put upon his guard as to any subsequent handling of those tanks. It is my personal opinion that the tanks were not full at the time, that if they were full it would have been indicated at the test when it was made at the Reclamation office.

One other point I wish to bring out in this connection is that this accident took place in July 1918. Nothing was done about this until 1927. In that year a bill was presented to Congress and then for the first time an affidavit was prepared supporting this claim, but nothing was done upon it during the 9 years previous.

Mr. MARTIN of Colorado. Mr. Speaker, will the gentleman yield?

Mr. COSTELLO. Yes.

Mr. MARTIN of Colorado. What bearing would it have on the issue whether the tanks were full or partially full or empty?

Mr. COSTELLO. The amount of gas in the tank would determine to some extent the amount of pressure. The more gas the greater the pressure.

When this tank did expand there was a terrific explosion and the tank itself hit the ceiling of the storeroom in which it was placed.

Mr. REES of Kansas. Mr. Speaker, will the gentleman yield?

Mr. COSTELLO. I yield.

Mr. REES of Kansas. I understand this accident occurred in 1918.

Mr. COSTELLO. That is correct.

Mr. REES of Kansas. And nothing was done until 1927?

Mr. COSTELLO. That is correct.

Mr. REES of Kansas. At that time did the matter come before the Claims Committee, or what was done at that time?

Mr. COSTELLO. The matter was presented by a bill in the Seventieth Congress for the first time.

Mr. REES of Kansas. And that committee turned it down; is that true?

Mr. COSTELLO. I do not know the legislative history of it from the Seventieth Congress on, but it has been before Congress subsequent to that time.

Mr. REES of Kansas. And now, 10 years later, it comes up for further consideration; is that correct?

Mr. COSTELLO. That is correct. It has been before the Congress, I believe, during that time.

Mr. CASE of South Dakota. Mr. Speaker, will the gentleman yield?

Mr. COSTELLO. I yield.

Mr. CASE of South Dakota. Is the gentleman aware of the fact that the reason given here for the nonpresentation was that the claimants were told they could not sue the Government and they did not know there was such a right?

Mr. COSTELLO. But nothing was done to present it to the Congress for a 10-year period.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. COSTELLO] has expired.

Mr. THOMASON of Texas. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, it is my candid opinion that there has been no more meritorious bill from the Claims Committee, certainly for a long time at least, than this one. I may be a little biased, because I knew Mr. Kline and I know this widow and her fine son. If the gentleman from California [Mr. COSTELLO] has no better argument against this bill than the fact that this claimant with her little boy, who was then 12 or 14 years old, did not know they had a valid claim against the Government and therefore did not present it until my predecessor, Mr. Hudspeth, presented it 10 years ago, then I think you will have no trouble in voting down his amendment.

I happen to know something about the facts in this case. Mr. Kline was the owner and operator of the El Paso Headlight Co., which manufactured this acetylene gas and placed it in these tanks that are described in the report. The United States Reclamation Service was one of its largest customers. The custom for a long time had been that Mr. Kline would deliver the filled tanks to the warehouse of the Reclamation Service, and when a tank was used that tank was placed at the west end of the warehouse, exposed to the sun, and then Mr. Kline would be notified when the tanks were to be refilled, and he and his son, whose testimony is in the report, would go there on their truck and get the empties.

Acetylene gas, as the testimony shows by the statement of the Bureau of Mines, is a very dangerous and explosive gas. This happened on the 1st day of July. When those tanks were full they would put wet sacks and things of that sort on the tanks and keep them in the shade in order to prevent any possible explosion. Then when the tanks were used they would be placed near the west end of this shed, exposed to the sun. So on this particular day Mr. Kline and this boy went there to the place where they were accustomed to go to get empties. They put the empties, or what they thought were empties, on the truck, and took them back to their plant to have them refilled. The testimony will show conclusively, if you will read this report, that either by mistake or negligence—and that is the unanimous report of this committee, "either by mistake or negligence"—the servants and agents of the Reclamation Service got a filled tank over there among the empties. That is the tank that he took back to his plant. When he got back there he started to test that tank, and I can best explain what happened by this:

> After unloading all of the drums, they were taken into the building which housed the factory, and my father began opening all drums to allow the remaining gas to escape. During this process, he came to the one that was to explode a few seconds later. On opening the valve, he found a terrific outflow of gas, so he closed the valve immediately, which was only a natural course for anyone to follow when finding a full drum. In closing the valve the terrific flow of gas was stemmed. Now, according to a verbal statement given my mother by a representative of the Bureau of Standards, who made a special trip to El Paso to investigate the accident, the explosion took place in the following manner—

which he described, and to which I invite your attention, but which I do not have the time to read. Nevertheless, it wrecked the building and literally blew Mr. Kline to pieces, and that tank landed down in the next block.

So that widow went to work. She did not know she had a claim against the Government. This bill has been reported out frequently by this committee, and I think every time it has been reported out by a unanimous report.

Mr. MAY. Mr. Speaker, will the gentleman yield?

Mr. THOMASON of Texas. I yield.

Mr. MAY. As a matter of fact, that tank is what is known in the law as a dangerous instrumentality?

Mr. THOMASON of Texas. Of course it was; and nobody knew it as well as the representatives of the Reclamation Service, where they kept these tanks stored. Both law and equity are on the side of this good woman. She ought to have been paid years ago. She is no longer a young woman, and she needs the money. I do not ask for charity, but I plead for justice. Her son is one of the fine young men of my city. Both are my good friends. I have an abiding faith that the Members of the House will do the right thing and pass this bill.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. PIERCE. Mr. Speaker, I move to strike out the last word.

The SPEAKER pro tempore. The Chair cannot recognize the gentleman to make that motion. Under the rule for the consideration of omnibus bills on the Private Calendar, the only amendments in order are "to strike out or reduce amounts of money stated or to provide limitations." A proforma amendment is therefore not in order.

The question is on the motion of the gentleman from California to strike out the title.

The motion was rejected.

Mr. DIRKSEN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

On page 5, line 9, strike out "$5,000" and insert in lieu thereof "$4,999.99."

Mr. RANKIN. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman will state the point of order.

Mr. RANKIN. Mr. Speaker, the law does not care for small things. I do not think Congress ought to take up time legislating on one penny. I submit that this is too small a matter to be considered by the House at this time.

The SPEAKER pro tempore. The Chair must hold that under the spirit of the rule for the consideration of omnibus private bills, such an amendment, which is in effect a proforma amendment, is not in order, and in addition thereto, the amendment offered is an amendment to an amendment already adopted, and therefore not in order.

Mr. DIRKSEN. Mr. Speaker, may I be heard on the point of order?

The SPEAKER pro tempore. The Chair will hear the gentleman on the point of order.

Mr. DIRKSEN. Under the rule that has been enunciated with respect to omnibus bills, the only way a Member can get recognition is to move either to strike out the title or reduce the amount. I think the amendment, therefore, follows the spirit of the rule.

As for the amount, 1 cent, the amendment was offered for the purpose of gaining recognition, because the Chair will not recognize anybody under a pro-forma amendment.

The SPEAKER pro tempore. The Chair might state that the spirit of the rule is to dispense with anything which resembles a pro-forma amendment. Furthermore, the gentleman offers an amendment to an amendment already adopted.

The Chair sustains the point of order.

Mr. DIRKSEN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DIRKSEN. Would the Chair care to rule whether an amendment reducing the amount by $1 would be within the spirit of the rule?

The SPEAKER pro tempore. That question is not involved in the gentleman's amendment. The gentleman practically disclosed that his amendment was offered purely as a pro-forma amendment, which amendment is not within the rule for the consideration of omnibus private claims bills.

The Clerk will read the next title.

BRUCE BROS. GRAIN CO.

The Clerk read as follows:

Title IV—(H. R. 1758. For the relief of Bruce Bros. Grain Co.)
By Mr. DUNCAN

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $279.90 to the Bruce Bros. Grain Co. in full settlement of all claims against the Government of the United States to cover loss sustained by said company on a car of wheat, car no. 96110, Chicago, Burlington & Quincy, shipped from St. Joseph, Mo., July 15, 1921, to Minneapolis, Minn.: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Mr. HANCOCK of New York. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANCOCK of New York: On page 6, strike out all of title IV.

Mr. HANCOCK of New York. Mr. Speaker, it must be apparent by this time that we are considering a series of very ancient claims which have been revived under the omnibus bill practice. The first claim that was allowed today was to reimburse a bondsman for loss occasioned on forfeited bonds in 1925. The second case was to allow a group of speculators in Brooklyn to go into court after they had already been there five or six times, and been defeated every time, on a claim that arose in 1920. We just passed a claim which arose in 1918 where a man was killed working on his own equipment in his own back yard. .

This fourth title, I think, is even more grotesque. In 1921 a concern in Missouri sold a carload of wheat to a buyer in Minneapolis. The contract provided for the delivery of hard winter wheat. The inspector in Missouri found that the sample submitted was hard winter wheat; but the seller, in order to protect himself further, had the Government inspector also examine this wheat. He, too, found it was hard winter wheat. The Government inspector was a very cautious man and wished to keep his own skirts clean, so he asked the Government board of review in Chicago to examine the same specimen. They found that it was hard yellow wheat. The board of review in Chicago notified the buyer that it was hard yellow and also notified the seller. In the meantime the wheat was shipped to Minneapolis. The purchaser declined to accept it because what he wanted was hard winter wheat. Now, the company which sold the wheat comes here asking us to pay the difference between the price of hard yellow wheat and hard winter. The shipment was sold in the open market at the current prices of hard yellow in Minneapolis. The claimant wants us to pay for a grade of wheat which he did not have to deliver. He does not ask the purchaser to pay it; he asks the taxpayers of the United States to pay it. It is not now claimed that the findings of the board of review were incorrect or that the wheat in question was anything other than hard yellow wheat. The claimant was disappointed by that finding, and we are asked to compensate him. If there is any merit in the claim, I would like to have someone explain it.

Mr. COFFEE of Washington. Mr. Speaker, I rise in opposition to the motion.

Mr. Speaker, the Claims Committee considered this bill and has considered it in previous sessions. During each of those sessions it was reported out by the Claims Committee. It was passed in an omnibus claims bill in the Seventy-fourth Congress, too late, however, to go through the Senate. This bill has been pending before the Claims Committee continuously and it is not due to any lack of diligence on the part of Bruce Bros. Co. that the bill has not finally become a law.

This is a meritorious case, in the opinion of the Claims Committee. I am speaking in its behalf because of the absence of the author of the bill, the gentleman from Missouri [Mr. DUNCAN], who is, unfortunately, detained in St. Joseph, Mo., at this time.

It seems that Bruce Bros. Grain Co., of St. Joseph, Mo., made a contract to sell a carload of wheat to a purchaser in Minneapolis, Minn., and the contract provided that it was to be no. 2 hard winter wheat. It was inspected by the State grain inspector, it was inspected by the Federal supervisor, both of whom found that it was no. 2 hard winter wheat.

Now, without any application on the part of the shipper whatever, the board of review in Chicago inspecting a small sample of the grain found it was no. 2 yellow hard winter wheat; consequently, when this carload of wheat reached the shipper in Minneapolis, the shipper refused to accept it on the ground that it was not as represented. The original claimant, the Bruce Bros. Grain Co., made this contract only after the grain had been found to be no. 2 hard winter wheat.

The Department of Agriculture, speaking through its Secretary, Henry Wallace, said:

It is the duty of the board of review to issue appeal grade certificates in the event interested party calls a board appeal from inspections performed by licensed inspectors and district supervisors, but in the present case no such board appeal was called.

This is the only time this has occurred, and this new finding by the Chicago board of appeal was requested by the shipper; consequently the contract could not be carried out, but such contract failure was through no fault of the shipper whatsoever.

Mr. Wallace also said:

It would seem that the second appeal grade certificate was issued without regard to the regulations, and under the circumstances should not have been issued at the late date of July 23. This was the first case of this kind which arose in the administration of the act, and as soon as the matter was brought to our attention steps were immediately taken to prevent a recurrence of the situation.

The shipper was compelled to sell this wheat at the current market price at point of arrival, which was Minneapolis, and sustained a loss of $279.90, for which recovery is sought through the medium of this bill. This damage was done by an agency of the Government. It was contrary to law and contrary to regulations, and, in the opinion of the Claims Committee, it seems the Government should respond in this amount of damage, which was the actual amount of damage sustained, without interest.

The reason for the 15-year delay apparently is that the claim has been hanging around this Congress and the Claims Committee. It has been reported repeatedly by the Claims

Committee, but the gentleman knows that in previous Congresses we have been unable to get consideration of a great many meritorious bills.

Mr. HANCOCK of New York. Will the gentleman yield?

Mr. COFFEE of Washington. I yield to the gentleman from New York.

Mr. HANCOCK of New York. Does the gentleman contend this examination by the board of review in Chicago was contrary to law? It was made at the request of the Government inspector in Missouri. It was a new service which the Government was giving. The inspector was a cautious man and he wished to be sure he was right. He found he was wrong. Is there any contention this wheat was hard winter wheat?

Mr. COFFEE of Washington. No.

Mr. HANCOCK of New York. The claimant is asking then for something he did not have. He was paid for hard winter wheat and the fact is that hard yellow wheat was shipped. He got all that the goods were worth.

Mr. COFFEE of Washington. The contract was made only after the State supervisor and the Federal supervisor said it was no. 2 hard winter wheat and on that basis he made his contract.

Mr. HANCOCK of New York. He had a contract to ship hard winter wheat, but he had his samples examined after he made the contract. That is true.

[Here the gavel fell.]

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. HANCOCK] to strike out the title.

The amendment was agreed to.

The Clerk read as follows:

Title V—(H. R. 1858. For the relief of Charles E. Names.) By Mr. MCANDREWS

That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Charles E. Names the sum of $225, in full settlement of all claims against the United States for the loss of an article of mail registered at the Osceola (Iowa) post office on April 29, 1920, which contained certain abstracts of title to lands owned by the said Charles E. Names. The postmaster at such post office was held responsible for the full amount of the loss, but the amount of the judgment recovered against him was inadvertently covered into the general fund of the Treasury as "Fines, penalties, and forfeitures", and the said Charles E. Names has never been reimbursed for the cost of new abstracts of title: *Provided*, That the Comptroller General of the United States is hereby authorized and directed to cancel post office settlement warrant no. 10531 in favor of Banta & Banta (E. G. Banta, successor), Osceola, Iowa, in the sum of $50: *Provided further*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Title VI—(H. R. 2093. For the relief of Marion Shober Phillips.) By Mr. LAMBETH

That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Marion Shober Phillips the sum of $5,000, the payment of such sum being in full satisfaction of all claims against the United States by reason of injuries sustained by the said Phillips on May 27, 1934, while assisting Government officers, under their orders, in seizing and destroying an illicit liquor distillery: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 8, at the end of line 14, strike out "$5,000" and insert in lieu thereof "$2,500."

The committee amendment was agreed to.

The Clerk read as follows:

Title VII—(H. R. 3276. For the relief of the Delaware Bay Shipbuilding Co.) By Mr. WENE

That the claim of the Delaware Bay Shipbuilding Co., of Leesburg, N. J., against the United States for damages alleged to have been caused to its marine railway by the United States Coast Guard boat *CG 227*, on the morning of November 6, 1931, may be determined in a suit to be brought by said claimant against the United States in the District Court of the United States for the District of New Jersey: *Provided*, That notice of the suit shall be given to the Attorney General of the United States as may be provided by order of the said court, and upon such notice it shall be the duty of the Attorney General to cause the United States attorney in such district to appear and defend for the United States: *Provided further*, That such suit shall be begun within 4 months of the date of the approval of this act.

With the following committee amendment:

Strike out all after the enacting clause and insert the following: "That jurisdiction is hereby conferred upon the United States District Court for the District of New Jersey to hear, determine, and render judgment, as if the United States were suable in tort, upon the claim of the Delaware Bay Shipbuilding Co., Inc., of Leesburg, N. J., for damages to its marine railway in the Maurice River, at Leesburg, N. J., allegedly by reason of being struck by United States Coast Guard patrol boat *CG–227*, on November 6, 1931: *Provided*, That the United States shall be permitted to file, and the said court shall hear and determine, any counterclaim or set-off as the result of alleged damage to United States Coast Guard patrol boat *CG–227* by reason of striking said marine railway of the Delaware Bay Shipbuilding Co., Inc.

"SEC. 2. Suit upon such claim may be instituted at any time within 1 year after the enactment of this act, notwithstanding the lapse of time or any statute of limitations. Proceedings for the determination of such claim, appeals therefrom, and payment of any judgment thereon shall be in the same manner as in the cases over which such court has jurisdiction under the provisions of paragraph twentieth of section 24 of the Judicial Code, as amended."

The committee amendments were agreed to.

Amend the title so as to read: "A bill conferring jurisdiction upon the United States District Court for the District of New Jersey to hear, determine, and render judgment upon the claim of the Delaware Bay Shipbuilding Co., Inc."

Mr. COSTELLO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Page 9, line 7, strike out all of title VII.

Mr. COSTELLO. Mr. Speaker, this bill would authorize the Delaware Bay Shipbuilding Co. to go to the United States District Court for the District of New Jersey and bring a suit there against the United States for damages to its marine railway in the Maurice River at Leesburg, N. J. The damage, it is alleged, was due to the marine railway being struck by a United States Coast Guard patrol boat.

This boat, the *CG–227*, on November 6, 1931, was patroling this river. Its officers were not particularly familiar with the navigation of the river. After the boat got to a point approximately opposite the plant of the Delaware Bay Shipbuilding Co. it prepared to turn around in the river, and in so turning the tide and current helped to wash it a little bit shoreward. The Coast Guard patrol boat ran aground against the marine railway.

The permit of the shipbuilding company to have this railway submerged required that the railway should be properly marked and indicated for the benefit of shipping and navigation in the river. Those markings were not provided, and as a result there was no means of notifying the officers in charge of the Coast Guard boat of the presence of that marine railway. Because of the failure of the Delaware Bay Shipbuilding Co. to have its railway properly marked so that the ship would know of the existence of the railway, I contend they are solely at fault and that the Coast Guard boat is in no way responsible for the damage that ensued to the railway. Had the railway been properly marked, unquestionably the Coast Guard boat would not have been turned around at that point and would not have come in contact with the railway.

The amount of damages sought amounted to $4,957.19. It appears to me that there is no actual negligence on the part of the Government in connection with the navigation of its ship in turning in the river. The only actual negligence that is shown from the facts in this case is negligence on the part of the Delaware Bay Shipbuilding Co. in having

failed to properly mark their own marine railway; and for this reason I believe the title should be stricken from this omnibus bill.

Mr. KENNEDY of Maryland. Mr. Speaker, I rise in opposition to the amendment.

I may say to the Members of the House that this particular bill is really a jurisdictional bill permitting these people to go into the United States district court and have their day in court. On page 41 of the report we admit that the question of damage is debatable. It seems to me that we should permit these people to go into court and have their day in court and there determine whether or not their claim is justified.

To show further this is a debatable claim, the report of the Department states it may be possible the Government has a claim against the Delaware Bay Shipbuilding Co. It seems to me we ought to permit the Delaware Bay Shipbuilding Co. to go into court and at the same time permit the Government to enter a counterclaim against the Delaware Bay Shipbuilding Co., and thus determine in the proper course whether there is any merit to the claim of the Delaware Bay Shipbuilding Co.

It seems to me, under these circumstances, we ought not to strike this title from the bill.

The SPEAKER pro tempore. The question is on the amendment of the gentleman from California [Mr. COSTELLO] to strike out title VII.

The amendment was rejected.

The SPEAKER pro tempore. The Clerk will report the next title.

The Clerk read as follows:

Title VIII—(H. R. 4169. To carry out the findings of the Court of Claims in the case of the Atlantic Works, of Boston, Mass.) By Mr. MCCORMACK

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Atlantic Works, of Boston, Mass., the sum of $22,170.30 in full settlement of all claims against the United States for the difference between the actual cost of the construction of the revenue cutter *Daniel Manning* and the amount paid under the contract entered into for the building of said vessel as found by the Court of Claims and reported in Senate Document No. 5, Sixty-eighth Congress, first session.

With the following committee amendment:

At the end of line 13 change the period to a colon and insert the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendment was agreed to.

Mr. COSTELLO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: On page 11, strike out all of title VIII.

Mr. COSTELLO. Mr. Speaker, this bill proposes to pay the sum of $22,170.30 to the Atlantic Works, of Boston, Mass. The Atlantic Works is a shipbuilding concern. You have previously been told about the age of some of the titles which appear in this particular omnibus bill. This cause of action arose over a contract to build ships which was entered into on June 27, 1895. The ship that was to be constructed was of an experimental nature. The contracting company apparently was not experienced in building this particular type of ship, and as a result numerous extra expenses were added, the cost of the ship being greatly increased. The company itself was not adequately prepared to construct a ship of this character, a steel vessel.

The company has already presented this matter to the Court of Claims and has not been successful there. Now the company comes back and asks for a donation on the part of Congress. The Court of Claims in its findings made this statement:

Changes in the specifications, which were not carried out, and rigid tests and inspections, which were not promptly acted on, caused delays which resulted in an increase over the contract price of $22,170.30.

This is the amount they are seeking in the bill. However, the contract provided for a number of changes. It provided that further changes should be agreed to by the parties. It provided for a definite penalty in the event of delays. Actually the excess cost amounted to some $133,000.

The important part of the decision of the Court of Claims is this:

There is no liability on the United States under the terms of the contract to pay said claim, and the claim is neither a legal nor an equitable one. The claimant insists that the claim is one for "a grant, gift, or bounty" by the Government.

This is simply the situation that confronts you. They have been to the Court of Claims, and the Court of Claims has made the statement that if they were to be given this $22,000 it would be nothing more than a donation to the company, which has neither a legal nor an equitable claim to be paid this amount of money. For this reason, in view of the fact this is a bill which is over 30 years old, I sincerely urge the Members of the Congress to defeat it by adopting my amendment.

Mr. MCCORMACK. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, the gentleman from California states the Court of Claims has made a finding against this claim. The Court of Claims has made a finding that this amount is reasonably due. As a matter of fact, the Court of Claims makes a finding that the hull of the *Daniel Manning* was the first composite vessel of its class to be built by the Government. The building of this vessel was for experimental purposes. As a result this company received many instructions from the Navy Department to change the specifications, a natural thing to do, but the company had to stand the expense.

The Court of Claims has found that the difference between the contract price and the expense actually incurred in the building of this vessel by the company was $22,170.30. There is not a penny of profit included in that amount. It is the actual expense this company incurred.

This matter was referred to the Court of Claims, and the Court of Claims made a favorable finding. Of course, there is no legal responsibility in any of these matters, and this is why we refer them to the Court of Claims to ascertain the moral obligation of the Government. If this company could have sued the Government in the United States district court, we would not have had to come here and ask for the passage of a private bill authorizing the company to go to the Court of Claims. In this case we have already passed the bill referring the matter to the Court of Claims, and the Court of Claims has made a finding with reference to the amount in which the Government is morally obligated to this company, the sum of $22,170.

There are two or three payments which have been made in the past in connection with some other contracts. The Fore River Ship & Engine Co. case is one where a bill has gone through for payment in connection with a similar contract with respect to an experimental ship, where the contractor incurred additional expense in assisting the Government. Those people came to the Congress and Congress recognized the moral obligation involved. The George Lawley & Son Corporation bill we passed last year covered a similar situation.

The mere fact that thirty-odd years have gone by is no bar. Half a year was passed in securing the report of the Treasury Department board. Attempting to secure legislative enactment for the first $138,000 actually due under the contract took 4 years. Securing the findings of the Court of Claims took nearly 20 years. This company has been pursuing its remedy as diligently as it possibly could. It is no fault of the company that it took years for a bill to pass referring the matter to the Court of Claims. Now, the Court of Claims has made a finding in this sum, and this is a bill to carry out the finding the Court of Claims has made, that the Government has a moral obligation to pay the company this particular sum.

Mr. REES of Kansas. Mr. Speaker, will the gentleman yield for a question?

Mr. McCORMACK. I yield to the gentleman.

Mr. REES of Kansas. Do I understand the gentleman from Massachusetts to say that this expenditure of $22,000 was for the benefit of the Government?

Mr. McCORMACK. Exactly.

Mr. REES of Kansas. In what respect did the Government benefit thereby?

Mr. McCORMACK. The Government was building a new type of vessel and it was just the same as if the Government had made a contract with the gentleman. The Government gives you certain plans and specifications, and as the vessel is being constructed the Government changes its plans and specifications, and you, in cooperation with the Government, proceed in accordance with the changed plans and specifications. However, you are limited to your contract and you cannot get the money for the expenses you have incurred as a result of complying with the change in the specifications that the Navy Department has made, and this is a bill to obtain for this company expenses it incurred as a result of cooperating with the Federal Government in trying to meet the changes in specifications that the Navy Department made subsequent to the making of the contract.

[Here the gavel fell.]

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California, striking out the title.

The question was taken; and on a division (demanded by Mr. COSTELLO) there were—ayes 34, noes 50.

Mr. COSTELLO. Mr. Speaker, I object to the vote on the ground there is not a quorum present.

The SPEAKER pro tempore. Evidently there is not a quorum present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 94, nays 204, not voting 133, as follows:

[Roll No. 115]

YEAS—94

Aleshire	Costello	Kocialkowski	Rankin
Allen, La.	Crawford	Lambertson	Reed, Ill.
Andresen, Minn.	Dondero	Leavy	Rees, Kans.
Arends	Douglas	Lord	Rich
Ashbrook	Dowell	Luckey, Nebr.	Robsion, Ky.
Bacon	Eicher	McFarlane	Romjue
Barden	Elliott	Maas	Rutherford
Biermann	Engel	Mahon, S. C.	Scott
Bigelow	Englebright	Mahon, Tex.	Secrest
Binderup	Faddis	Mapes	Sheppard
Boren	Fish	Michener	Snell
Boyer	Flannery	Millard	Spence
Brown	Fletcher	Mills	Stefan
Buck	Ford, Miss.	Mitchell, Tenn.	Taber
Buckler, Minn.	Gingery	Moser, Pa.	Tarver
Byrne	Gray, Pa.	Mott	Taylor, S. C.
Cartwright	Halleck	O'Brien, Mich.	Turner
Church	Hancock, N. Y.	O'Day	Umstead
Clark, N. C.	Hill, Wash.	Owen	Vincent, B. M.
Claypool	Hobbs	Patterson	Whittington
Cluett	Hope	Pearson	Williams
Cochran	Jarrett	Pierce	Wolcott
Cooley	Johnson, Okla.	Polk	
Cooper	Kniffin	Ramsay	

NAYS—204

Allen, Ill.	Crosby	Ford, Calif.	Hill, Okla.
Andrews	Crowe	Frey, Pa.	Holmes
Arnold	Crowther	Gambrill	Hook
Atkinson	Cullen	Garrett	Houston
Barry	Curley	Gasque	Hull
Bates	Deen	Gearhart	Hunter
Beam	Delaney	Gehrmann	Izac
Bell	Dempsey	Gildea	Jarman
Bland	DeMuth	Goldsborough	Jenkins, Ohio
Boehne	Dingell	Green	Jenks, N. H.
Boileau	Dirksen	Greever	Johnson, Luther A.
Boland, Pa.	Disney	Griffith	Johnson, Minn.
Bradley	Ditter	Griswold	Johnson, W. Va.
Brooks	Dockweiler	Guyer	Jones
Burdick	Dorsey	Gwynne	Keller
Cannon, Mo.	Doxey	Haines	Kelly, Ill.
Carlson	Drew, Pa.	Hamilton	Kelly, N. Y.
Case, S. Dak.	Drewry, Va.	Harlan	Kennedy, Md.
Champion	Dunn	Harrington	Kennedy, N. Y.
Clason	Eberharter	Hart	Kenney
Coffee, Wash.	Evans	Havenner	Keogh
Colden	Ferguson	Healey	Kerr
Colmer	Fitzgerald	Hendricks	Kinzer
Cox	Flannagan	Hildebrandt	Kleberg
Knutson	Mead	Reece, Tenn.	Thom
Kramer	Meeks	Reilly	Thomas, Tex.
Kvale	Merritt	Rigney	Thomason, Tex.
Lamneck	Mitchell, Ill.	Robertson	Thompson, Ill.
Lanham	Murdock, Ariz.	Robinson, Utah	Thurston
Lanzetta	Murdock, Utah	Rogers, Mass.	Tobey
Larrabee	Nelson	Sabath	Tolan
Lea	Nichols	Sacks	Towey
Lesinski	O'Brien, Ill.	Sadowski	Transue
Lewis, Colo.	O'Connell, R. I.	Sanders	Treadway
Long	O'Connor, N. Y.	Sauthoff	Vinson, Fred M.
Lucas	O'Leary	Schaefer, Ill.	Vinson, Ga.
Luce	Oliver	Schneider, Wis.	Wallgren
Ludlow	O'Neill, N. J.	Schulte	Walter
Luecke, Mich.	O'Toole	Scrugham	Warren
McAndrews	Patman	Seger	Wearin
McCormack	Patrick	Shanley	Weaver
McGehee	Patton	Shannon	Welch
McKeough	Peterson, Fla.	Smith, Conn.	West
McLaughlin	Peterson, Ga.	Smith, Maine	Whelchel
McLean	Pettengill	Snyder, Pa.	White, Ohio
McReynolds	Poage	South	Wigglesworth
McSweeney	Powers	Sparkman	Wolfenden
Martin, Colo.	Quinn	Stack	Wolverton
Martin, Mass.	Rabaut	Steagall	Wood
Massingale	Ramspeck	Sutphin	Woodruff
May	Randolph	Swope	Woodrum

NOT VOTING—133

Allen, Del.	Dies	Johnson, Lyndon	Rayburn
Allen, Pa.	Dixon	Kee	Reed, N. Y.
Amlie	Doughton	Kirwan	Richards
Anderson, Mo.	Driver	Kitchens	Rogers, Okla.
Beiter	Duncan	Kloeb	Ryan
Bernard	Eaton	Kopplemann	Schuetz
Bloom	Eckert	Lambeth	Shafer, Mich.
Boykin	Edmiston	Lemke	Short
Boylan, N. Y.	Ellenbogen	Lewis, Md.	Simpson
Brewster	Farley	McClellan	Sirovich
Buckley, N. Y.	Fernandez	McGranery	Smith, Va.
Bulwinkle	Fitzpatrick	McGrath	Smith, Wash.
Burch	Fleger	McGroarty	Smith, W. Va.
Caldwell	Forand	McMillan	Somers, N. Y.
Cannon, Wis.	Fries, Ill.	Magnuson	Starnes
Carter	Fuller	Maloney	Sullivan
Casey, Mass.	Fulmer	Mansfield	Sumners, Tex.
Celler	Gavagan	Mason	Sweeney
Chandler	Gifford	Maverick	Taylor, Colo.
Chapman	Gilchrist	Miller	Taylor, Tenn.
Citron	Gray, Ind.	Mosier, Ohio	Teigan
Clark, Idaho	Greenwood	Mouton	Terry
Coffee, Nebr.	Gregory	Norton	Thomas, N. J.
Cole, Md.	Hancock, N. C.	O'Connell, Mont.	Tinkham
Cole, N. Y.	Harter	O'Connor, Mont.	Voorhis
Collins	Hartley	O'Malley	Wadsworth
Cravens	Hennings	O'Neal, Ky.	Wene
Creal	Higgins	Pace	White, Idaho
Crosser	Hill, Ala.	Palmisano	Wilcox
Culkin	Hoffman	Parsons	Withrow
Cummings	Honeyman	Peyser	Zimmerman
Daly	Imhoff	Pfeifer	
DeRouen	Jacobsen	Phillips	
Dickstein	Jenckes, Ind.	Plumley	

Mr. GREEN and Mr. WOOD changed their votes from "aye" to "no."

So the amendment was rejected.

The Clerk announced the following additional pairs:

Until further notice:

Mr. Doughton with Mr. Carter.
Mr. Smith of Virginia with Mr. Hartley.
Mr. Bulwinkle with Mr. Brewster.
Mr. Maverick with Mr. Bernard.
Mr. Crosser with Mr. Short.
Mr. Rayburn with Mr. Taylor of Tennessee.
Mr. Bloom with Mr. Pace.
Mr. Cole of Maryland with Mr. Wene.
Mr. Beiter with Mr. Coffee of Nebraska.
Mr. Dies with Mr. Zimmerman.
Mr. Hennings with Mr. Casey of Massachusetts.
Mr. Wilcox with Mr. Dickstein.
Mr. Collins with Mr. Dickstein.
Mr. Gavagan with Mr. Flannagan.

The result of the vote was announced as above recorded.

Mr. KENNEDY of Maryland. Mr. Speaker, I move the previous question on the passage of the bill (H. R. 6336) for the relief of sundry claimants, and for other purposes.

The previous question was ordered.

The bill was ordered to be engrossed, read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. COSTELLO) there were—ayes 131, noes 20.

So the bill was passed.

A motion to reconsider was laid on the table.

PRIVATE CALENDAR

The SPEAKER pro tempore. The Clerk will call the next omnibus bill on the calendar.

The Clerk read as follows:

H. R. 6337, a bill for the relief of sundry claimants, and for other purposes

Be it enacted, etc.—

Title I—(H. R. 738. For the relief of Asa C. Ketcham.) By Mr. GOLDSBOROUGH

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Asa C. Ketcham, of Fairmount, Md., the sum of $4,000 in full satisfaction for his claim against the United States Government for loss of his vessel *J. J. Underhill*, loaded with oyster shells, when it ran into a submerged pile while approaching a dock in Alexandria, Va., June 17, 1933, and sank.

With the following committee amendments:

Page 1, line 8, strike out "$4,000" and insert "$2,500."

In line 10, after the word *"Underhill"*, strike out the remainder of the bill and insert "which was negligently beached in August 1933, so as to render it unfit for further use, and the possession of which was refused said Asa C. Ketcham prior to such beaching, by employees of the Corps of Engineers, War Department: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to.

Mr. COSTELLO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Page 1, beginning in line 3, strike out all of title I.

Mr. COSTELLO. Mr. Speaker, this title provides for the payment of $2,500 for the loss of a boat, the *J. J. Underhill*, to be paid to the claimant, Asa C. Ketcham. This boat in coming up the Potomac River struck a submerged piling near Alexandria, Va. The boat was towed up the river, but finally sank near Hains Point. Being in the navigation channel of the river, it was a hindrance to shipping in the river. As a result, the War Department deemed it necessary to immediately remove the vessel from the channel. The claimant advised the district engineer that he was without funds with which to salvage his own vessel, and so he authorized the district engineer to remove the vessel. The vessel was, therefore, raised and towed to the mud flats adjacent to Gravelly Point, and there this boat was beached. The boat was advertised for sale with the requirement that a bond be furnished by the vendee of the boat against any possibility that it would sink before it could reach a marine railway. In other words, the Government demanded that whoever should purchase the boat should make certain that in removing it from Gravelly Point to a marine railway for repairs he should see to it that it would not sink on the way. The claimant was the only bidder, but as he could not furnish the necessary bond his proposal was rejected. Within a few days a storm came on, and being battered about, the vessel became so useless that its sale or removal was impracticable, and now the claimant is coming in trying to recover $2,500 in damages from the Government.

It is quite evident that the removal of the boat from Hains Point was a proper action upon the part of the Government in keeping open the navigation lanes of the Potomac River. Its beaching at Gravelly Point was quite within the power of the War Department.

The failure on the part of the owner to provide a good and sufficient bond for moving that boat from its point of beaching to a marine railway was sufficient reason in not allowing him to take the boat from that position. The fact that the storm came on and finished the destruction of the boat to such a degree that it was thereafter worthless was not the responsibility of the War Department or of the Government, and for that reason it is my contention that the claimant is not entitled to recover any sum of money whatsoever from the Government. I therefore urge upon the Members to adopt my amendment to strike the title from the bill.

Mr. KELLER. Mr. Speaker, will the gentleman yield?

Mr. COSTELLO. Yes.

Mr. KELLER. What made the boat sink?

Mr. COSTELLO. It ran into a submerged piling off Alexandria, and due to the damage to the boat it leaked so badly that it finally sank off Hains Point.

Mr. McFARLANE. And what is the theory upon which the Government is asked to pay this $2,500 to this claimant?

Mr. COSTELLO. The claim is that in beaching it at Gravelly Point and not having it properly moored and tied down when the storm came on, the boat was further rendered useless, and they blame that responsibility on the Government. To my mind, it was up to the owner to take care of the boat from the time it was removed from the channel and placed at Gravelly Point.

Mr. McFARLANE. In other words, if a horse should stray out onto the highway and an automobile came along and killed it, and the highway department dragged the horse off the highway to keep the lane open for the public, the highway department ought to pay for the horse. Is that right?

Mr. COSTELLO. Not quite, but it is a somewhat similar situation.

Mr. MASSINGALE. What action did the Court of Claims take on the bill?

Mr. COSTELLO. This particular matter I do not believe has been brought to the Court of Claims. It is being presented to Congress as a first claim for a direct payment of money.

Mr. KENNEDY of Maryland. It cannot go before the Court of Claims unless Congress authorized it to be sent there, and the only redress is to come direct to the Congress.

The SPEAKER pro tempore. The time of the gentleman from Maryland [Mr. GOLDSBOROUGH] has expired.

The question is on the motion of the gentleman from California to strike out the title.

The question was taken; and on a division (demanded by Mr. GOLDSBOROUGH) there were ayes 37 and noes 42.

So the motion was rejected.

The Clerk read as follows:

Title II—(H. R. 1085. For the relief of John L. Alcock.) By Mr. KENNEDY of Maryland

That (1) the Court of Claims of the United States be, and is hereby, given jurisdiction to hear and determine the claim of the said John L. Alcock, and to award him compensation for losses and/or damages, if any, sustained by him by reason of the action of the officers of the Signal Corps and/or the Spruce Production Division of the War Department in promulgating the order refusing to permit any further shipments under his said contracts and foreign orders and directing the canceling of the said contracts of the said Alcock with the said American mills; and to enter a decree or judgment against the United States for such losses and/or damages, notwithstanding the executory character of such contracts and that there had been no delivery of title to him under his contracts with the American mills, such losses and/or damages to be measured by the difference between what he would have received from the foreign purchasers upon delivery of the lumber, free on board cars at mills, and the amount he had agreed to pay the American mills free on board cars at mill.

With the following committee amendment:

Beginning in line 16, on page 2, strike out all down to and including line 9, on page 3, and insert:

"That (1) jurisdiction is hereby conferred upon the Court of Claims of the United States to hear, determine, and render judgment on the claim of John L. Alcock, of Baltimore, Md., for loss and/or damage, if any, sustained by him by reason of the action of officers of the Signal Corps and/or the Spruce Production Division of the War Department in promulgating the order refusing to permit further shipments under his contracts and foreign orders for the shipment and delivery from February to December 1918 of 6,000,000 feet of spruce and fir lumber for the use of the British Army in the prosecution of the World War, and by reason of their action in directing the canceling of his contracts with the American mills for the production and shipment of said 6,000,000 feet of lumber. The Court of Claims shall hear, determine, and render judgment on the claim, notwithstanding the executory character of such contracts and that there had been no delivery of title to claimant under his contracts with the American mills, and shall measure the losses and/or damages, if any, by the difference between what claimant would have received from the foreign purchasers on delivery of the lumber, free on board cars at the mills, and the amount he had agreed to pay the American mills free on board cars at mills."

The committee amendment was agreed to.

The Clerk read as follows:

(2) The Court of Claims in the adjudication of the said claim is authorized in its discretion to use, in addition to any evidence that may be offered in any suit which may be brought under this act, the pleadings and evidence in the case of *John L. Alcock & Co.* v. *The United States* (61 Ct. Cls. 312), and in the case of *John L. Alcock & Co.* v. *The United States* (No. J–567), decided April 4, 1932.

(3) Suit hereunder may be instituted at any time within 4 months after the approval of this act, notwithstanding lapse of time or any statute of limitations, and proceedings therein shall be had as in the case of claims over which such court has jurisdiction under section 145 of the Judicial Code as amended.

With the following committee amendment:

Amend the title so as to read: "A bill to confer jurisdiction on the Court of Claims of the United States to hear, determine, and render judgment upon the claim of John L. Alcock."

The title was amended.

Mr. HANCOCK of New York. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANCOCK of New York: On page 2, strike out all of title II.

Mr. HANCOCK of New York. Mr. Speaker, title II is an attempt to recover profits which a man named Alcock, of Baltimore, Md., might have made if the United States had not entered the World War. The claim is not for any out-of-pocket expenses or any losses, but for prospective war profits. The matter has been in the Court of Claims twice and adjudicated twice, and now we are asked to send it back a third time, stripping the Government of every possible defense.

This bill, in effect, is a direction to the Court of Claims to assess damages in the amount of $195,000 with interest at 6 percent from 1918 down to date. That is the effect of the bill. The report is rather voluminous.

Mr. KENNEDY of Maryland. Mr. Speaker, will the gentleman yield?

Mr. HANCOCK of New York. I yield.

Mr. KENNEDY of Maryland. The bill has been amended and there is no amount fixed here. This is simply another jurisdictional bill authorizing the Court of Claims to hear this claim.

Mr. HANCOCK of New York. We know what the claim is from reading the decision of the Court of Claims. You will find that what this man seeks is profits he might have made on a contract he had with a firm of brokers in Scotland for the delivery of several million feet of fir and spruce. He has made the same claim in the Court of Claims before. It was for $195,000 and it was rejected. The opinion of the Court of Claims has been taken as a guide in drawing this bill to insure a favorable decision on the next hearing. The grounds on which this claim was rejected by the court have been eliminated here, so that the Government has no defense whatever the next time the case reaches the court, if this bill is passed.

Mr. McFARLANE. Mr. Speaker, will the gentleman yield?

Mr. HANCOCK of New York. I yield.

Mr. McFARLANE. How many lives do these supposed claims have? Do we not ever get through with them? Whenever they are adjudicated and passed on by some court against the claimant, that ought to end it sometime, some place, somewhere, somehow.

Mr. HANCOCK of New York. I agree with the gentleman, yet there is a bill before my committee for a claim arising in the War of 1812.

Mr. McFARLANE. Let us try to stop this one.

Mr. HANCOCK of New York. Let me briefly state the facts here. I want you to get the picture as I see it. The gentleman in Baltimore, the claimant in this title, did a very large business selling fir and spruce from our western forests to England, France, and Italy, where that lumber was greatly needed in the construction of airplanes.

The prices steadily advanced and he made substantial profits. When the United States got into the war, Secretary Baker realized that a great deal of war profiteering was going on in lumber and that it was impossible to allocate it between the Allies and for domestic uses without Government control, so the spruce division, very wisely, was formed. They took over control of production and distribution of lumber in this country and fixed prices. When the Government engaged in this activity, performing a very necessary governmental function in an emergency, the emergency of war, Mr. Alcock had two lots of lumber which he had contracted to sell. One was already in the seaports or on trains in transit to the seaports. He had purchased the lumber and had received payment for it. The Government seized that property and allocated it among the Allies and fixed the price, allowing Mr. Alcock a small profit. So, in that case he actually lost the profits he would have obtained on lumber which was his, if the Government had not intervened.

The Court of Claims allowed him those profits, every penny of it, $163,000 with interest at 6 percent, under the authority of a private bill passed for the benefit of this claimant in 1928.

There was another lot of lumber which he contracted to sell to a firm of brokers in Scotland. No money had been paid to him, he had paid nothing to the mills, not a cent of investment had been made, the lumber had not been cut, it was not in being. It was purely an executory contract, as the court found. In those circumstances he sustained no loss, except the possibility of an estimated profit, if the Government had not exercised a necessary governmental function in keeping down war profiteering and seeing to it that the lumber went to our allies, who needed it. He actually lost nothing. He received $163,000 profit from the lumber to which he had title. He now asks for $195,000 profit on lumber he never had.

Mr. McFARLANE. Mr. Speaker, will the gentleman yield?

Mr. HANCOCK of New York. I yield.

Mr. McFARLANE. In other words, he is just like the Arkansas hog farmer who said that he lost $100,000 last year on hogs. When they asked him how that was he said, "Well, if I had had the hogs to eat up the acorns last year, I would have made $100,000." That is just about the situation regarding this claim.

Mr. HANCOCK of New York. That is about the situation.

[Here the gavel fell.]

Mr. HANCOCK of New York. I just want to point out, stealing a minute, that the Supreme Court has passed time after time on this class of cases, and has uniformly held in favor of the Government. Every time there is a war, a tariff law, or an embargo, many people lose prospective profits. This is another one of those cases.

[Here the gavel fell.]

Mr. KENNEDY of Maryland. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, my friend, the gentleman from New York, is somewhat mistaken with reference to this claim. As I understand it, it is true this party did go into the Court of Claims on a previous bill passed by Congress and obtained $163,000. At that time he also filed his claim for the amount of the anticipated profits under his contract, which had the approval of the War Department, but the Court of Claims then stated that it was not, in their opinion, the intention of Congress to cover this particular item of his claim. It was the intention of Congress originally to give Mr. Alcock an opportunity to be heard on the claim here involved, and this bill is to give him an opportunity to go into the Court of Claims and have them determine whether or not he is entitled to what he now claims.

The War Department applies this case to existing law as established by the Supreme Court in the case of Omnia Commercial Co., Inc., against United States, whereas your committee believes the claim is more applicable to the existing law as established by the Supreme Court in the case of the International Paper Co. against The United States, where the Supreme Court found that the Government had taken property which rightfully belonged to the International Paper Co. for its own use without reimbursement for same. It is my opinion, therefore, that the Court of Claims should be

allowed to determine which law this case is applicable to, and that is all this bill does.

Mr. HANCOCK of New York. Mr. Speaker, will the gentleman yield?

Mr. KENNEDY of Maryland. I yield.

Mr. HANCOCK of New York. The gentleman is aware, is he not, that under this bill the Government cannot set up as a defense the executory character of the contract, or that there had been no delivery of title to the claimant under the contract, which are the very grounds on which the Court of Claims threw this claim out the other time when he was there? This bill strips the United States of every defense.

Mr. KENNEDY of Maryland. I do not so understand it. It is my understanding that the bill as now worded does not do that.

All this man is asking is to go into the Court of Claims and have his case determined; in other words, he had the approval of the War Department when he entered into this contract and then at a subsequent date the Government came along and took away from him his rights under the contract which it previously had approved. All he is asking is to have his day in court and have this claim determined on its merits and to have it ascertained whether or not he is entitled to damages and the extent of the damages.

Mr. HANCOCK of New York. Mr. Speaker, will the gentleman yield further?

Mr. KENNEDY of Maryland. I yield.

Mr. HANCOCK of New York. The gentleman is familiar with the report of the War Department in which it is pointed out that if this bill should pass it offers a precedent for tens of thousands of other similar claims for loss of possible profits because of our entry into the war, or because of peace coming on. Either of these events broke up somebody's plans.

Mr. KENNEDY of Maryland. I appreciate that, but Congress always has control of the situation and can determine what cases should be heard. It is up to us to say whether we will allow tens of thousands of claims or one, but we should not hesitate to do justice because of the possible fear that other claimants might come in. This claim has been passed by the Claims Committee, and, in my judgment, when a claim gets past them it has plenty of merit to it.

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. HANCOCK of New York. I yield.

Mr. RICH. Many of these cases already have been to the Court of Claims, and the court found against them. In fact, they have taken some of these cases to the Court of Claims two or three times.

Then they bring it back to Congress and want us to authorize payment of claims that the court has ruled out. Does not the gentleman think that is an imposition on the membership of the House when they do not know more about these claims than they do?

Mr. KENNEDY of Maryland. That is not the case. In other words, we have a bill before the House to permit these people to go into court. We passed this bill during the last session of Congress and the gentleman from Pennsylvania and the gentleman from New York voted for it. It was considered in an omnibus bill on May 13 last year, which bill passed the House.

Mr. RICH. I will bet if the gentleman is referring to me, I did not vote for it.

Mr. HANCOCK of New York. I can assure the gentleman I did not, either.

Mr. KENNEDY of Maryland. I do not know whether there was a record vote or not, but that bill was passed. These people are entitled to go in and have their case heard in court. This bill merely gives the court jurisdiction to hear the case, and nothing more. I think when the committee passes on a claim, after having heard it and after having filed a complete report, the Congress ought to adopt it.

Mr. McFARLANE. Will the gentleman yield?

Mr. KENNEDY of Maryland. I yield to the gentleman from Texas.

Mr. McFARLANE. I understood the gentleman from New York to say that this claimant had its day in court.

Mr. KENNEDY of Maryland. Not on this particular item. There were two items involved. The court held that the original bill as passed, which gave them $163,000, did not intend that the court should hear this particular matter.

Mr. McFARLANE. Where has this claim been since the World War?

Mr. KENNEDY of Maryland. It has been here all the time, and the gentleman from Texas and others have been objecting to it.

Mr. McFARLANE. If it had any merit it would have been passed long ago, and the fact that we have been able to defeat it in the past shows me the more why there is little merit in giving it favorable consideration now.

[Here the gavel fell.]

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. HANCOCK].

The question was taken; and on a division (demanded by Mr. KENNEDY of Maryland) there were—ayes 70, noes 16.

So the amendment was agreed to.

The Clerk read as follows:

Title III—(H. R. 1258. For the relief of E. G. Briseno.) By Mr. THOMASON of Texas.

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to E. G. Briseno, of El Paso, Tex., the sum of $5,000 for painful, severe, and permanent injury to his minor son, Hector Briseno, caused by the explosion of a shell picked up upon private property, which shell had been dropped and left there by troops of the United States Army engaged in target practice.

With the following committee amendments:

Page 5, line 6, after the word "of" strike out all of line 6 and all of lines 7, 8, 9, and 10 and insert in lieu thereof the following: "$5,225.35, in full settlement of all claims, against the United States for personal and permanent injury to his son, Hector Briseno, a minor child, from the explosion of a 37 mm shell, on November 7, 1932, which he picked up on private property, and which had previously been picked up and carried from a target range of the United States Army, where it was lying in the open, by George Pell, also a minor: *Provided*, That of the amount herein appropriated, the sum of $4,000 shall be held in trust by the said E. G. Briseno for use in maintenance of his son, Hector Briseno, and the sum of $1,225.35 shall be received by him as reimbursement for medical expenses incurred as the result of said injury to Hector Briseno: *Provided further*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

Page 6, line 8, strike out all of section 2.

Amend the title so as to read: "A bill for the relief of E. G. Briseno and Hector Briseno, a minor."

The committee amendments were agreed to.

Mr. HALLECK. Mr. Speaker, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. HALLECK: Page 5, beginning in line 3, strike out all of title III.

Mr. HALLECK. Mr. Speaker, I objected to this bill when it came up for consideration on the Private Calendar because on investigation I did not find that a case of liability was stated against the Government. It is my purpose now to attempt to point out the facts in this case, as I understand them, to the end that the membership of the House may determine whether or not this claim should be paid.

The bill seeks to pay E. G. Briseno, of El Paso, Tex., the sum of $5,225.35. In January of 1932 the Briseno family and the Pell family were living side by side in El Paso, Tex. In that month one of the Pell children, George, 17 years of age, accompanied by his sister and two of the Briseno children, a brother and sister of the claimant in this action, went on a picnic to a target range belonging to the United States Government. While they were there George Pell, the 17-year-old boy, picked up an unexploded projectile fired from a 37-millimeter gun and carried it home with him. This was in January of 1932.

For something like 10 months the unexploded projectile was in and around the Pell and the Briseno homes. The

children of the two families played with it. The adult parents knew it was there and were familiar with the fact the children were playing with the projectile.

Subsequently the projectile was put in the garage of the Briseno home, and I think there was some evidence it was put up out of reach of the children. In November of 1932 this little fellow, Hector Briseno, got the projectile down from the shelf and began playing with it. He dropped it and the shell exploded, causing him very severe and permanent injuries.

Mr. Speaker, as I interpret the case, it proceeds on the theory that the Government is liable by reason of the fact that the projectile was allowed to remain there on the target range. There is no showing that the Government or any agent of the Government knew the projectile was there. I say, from the very nature of things, the Government could not know that fact.

The projectile was taken to the homes of these people. They knew it was there. If there was any negligence in allowing that projectile to be available as the plaything of these children, that negligence is chargeable to the parents themselves and not to the Government of the United States. If there was any original negligence on the part of the Government, there was subsequent intervening negligence on the part of the parents themselves, who, in my opinion, certainly should know enough to appreciate that the shell was a dangerous plaything for children.

There is much to be said on the sympathetic side in the consideration of this bill; and as far as my own sympathies are concerned, I would like to see the youngster taken care of. If this is to be treated as a matter of gratuity, then likely the amendment I have offered should fail; but if we are to consider this measure on its merits and as it might involve negligence or even moral responsibility of the Government, I say my amendment should be agreed to.

It probably is not altogether fair to say that the youngsters in the first instance were trespassers, although they did go upon the property of the United States Government, where, as a matter of fact, they had no particular right to be. In addition to that, the El Paso papers carried notices for a period of 9 years stating to the people that that was a firing range, and certainly that ought to set up in the minds of the people sufficient notice that it was a dangerous place.

Mr. SOUTH. Will the gentleman yield?

Mr. HALLECK. I yield to the gentleman from Texas.

Mr. SOUTH. Did this Mexican boy know that this projectile was dangerous or not?

Mr. HALLECK. It is asserted in some of the affidavits that they were people unacquainted with the nature of that sort of a thing and did not know it was dangerous. As I say, following on the heels of the World War, anyone living in the immediate vicinity of this sort of a target range certainly had some idea of the dangerous character of the projectile.

Mr. THOMASON of Texas. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, this is a sad, and, in my judgment, a very meritorious case. The gentleman from Indiana has not stated quite all the facts, because I have some personal knowledge of the situation.

At the outskirts of El Paso, Tex., is Fort Bliss, which is one of our large Army posts. Some few miles from Fort Bliss is the Casner target range, out in the desert where they fire up against the Franklin range of mountains. There is not a fence anywhere near. There is not a signboard of any kind. There is not the slightest bit of warning to anybody, adult or child, that that is a target range. When the time came in this particular year for target practice the Army went out there with their large projectiles and fired across the desert up against the mountain. When the springtime came and the Army had gone back to quarters the picnic season started, and the Briseno and the Pell families, or the children, at least, went out there for a picnic. These families are illiterate but highly respected people of Mexican descent. They are absolutely without any knowledge of firearms. It is true, as the gentleman from Indiana has stated, that there had been some kind of a notice in the advertising section of the local paper to the effect that at a certain time there would be some firing out on the target range, but it was after the target practice had finished that this incident occurred.

The children went out on the range for their happy picnic. The Pell boy picked up this unexploded shell. To leave it in such a place was negligence per se. There was no kind of a sign, there was no kind of a warning, there was no kind of a fence there to tell an adult that he was a trespasser upon anybody's land; because most of it is public land, state school land or university land, with no fence or protection or anything of that sort about it.

These little innocent Mexican children took that unexploded shell home with them, where, it is true, they played around with it and tossed it about. Perhaps their parents ought to have known better, but they did not. It is safe to say that no parent knowing the danger of that unexploded shell, which our great Army had left out there to be picked up by innocent children, would have left such a shell lying around. The children played with the shell, treating it as a kind of toy, because they are not the kind who have many toys. One of the children was little Hector, 5 years old. He found the shell and took it from the shelf in their humble home, when he dropped it, and it exploded.

Last summer when I was home, that honest, innocent, and illiterate old father brought the boy to my office. I do not know when I have seen a worse disfigured child or a much brighter one, with one arm gone, with a leg terribly lacerated, and with one eye nearly blind and which will probably have to be removed. To me it would be the most unjust thing in the world not to give this relief, because the Army went out there and fired all those shells and exercised no caution whatever for the public, but left unexploded shells out there where children might find them. You know the law of explosives in all the States—that due care and extra caution must be taken by those using that kind of instrumentalities to see to it that children and innocent, ignorant people do not suffer as the result of such use. Explosives are attractive and inviting to children. The law demands that extra caution be exercised.

Mr. HALLECK. Mr. Speaker, will the gentleman yield?

Mr. THOMASON of Texas. I yield.

Mr. HALLECK. Would the gentleman suggest there is any duty on the United States Government or its Army to comb the territory of that target range and pick up the unexploded shells that may be there?

Mr. THOMASON of Texas. With respect to the unexploded shells that showed signs of not having been exploded, I say it was their duty to do it. Furthermore, I say it was their duty to put a fence or warning sign of some sort around that place. I have heard there is a regulation that requires the Army to pick up or bury all shells.

Mr. IZAC. Was this a 37-millimeter unexploded shell?

Mr. THOMASON of Texas. I believe that is what the report states. I am not much more familiar with firearms than this little boy or his father.

Mr. IZAC. For the benefit of the Members, I believe it should be stated you cannot tell whether such a shell is armed or unarmed. The doughboys brought back from France and other places many of these shells, and you could not tell by looking at them whether they were armed or not.

Mr. McCORMACK. Furthermore, the Committee on Claims has passed on this bill, and that is a presumption in favor of it.

Mr. THOMASON of Texas. They passed on it three times by unanimous action, I understand. The bill has merit, and all doubts ought to be resolved in favor of this terribly mangled little boy.

[Here the gavel fell.]

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Indiana [Mr. HALLECK] to strike out the title.

The amendment was rejected.

The SPEAKER pro tempore. The Clerk will report the next title.

The Clerk read as follows:

Title IV—(H. R. 1690. For the relief of Ralph Riesler.) By Mr. BUCKLEY of New York

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Ralph Riesler the sum of $5,000 for damages suffered by reason of his son, Ralph Riesler, being struck and killed by a Government automobile which was driven by an employee of the Post Office Department.

With the following committee amendments:

Beginning in line 14, on page 6, strike out all down to and including line 20 and insert the following:

"That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Ralph Reisler, of New York City, N. Y., the sum of $2,500 in full satisfaction of his claim against the United States for the death of his minor son, Ralph Reisler, Jr., who died from injuries sustained when he was struck by a United States mail truck in the Bronx, New York City, on January 21, 1925: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

Amend the title so as to read: "A bill for the relief of Ralph Reisler."

The committee amendments were agreed to.

Mr. COSTELLO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Beginning on page 6, line 12, strike out all of title IV.

Mr. COSTELLO. Mr. Speaker, the present title provides for the payment of $2,500 to Ralph Reisler for the death of his minor son. This death was occasioned by the son's riding on a sleigh apparently out of a private driveway into a public street. The street was covered with snow. The collision occurred in New York City on January 21, 1925, when the child was run over by a mail truck. Apparently the children around there had been using this driveway as a sleighing ground, and would come down the hill out of the driveway and then curve into the street.

It appears the accident occurred at about 7:30 p. m. Some of the children were standing in the street. They apparently attempted to stop the mail-truck driver from driving by the driveway. The youngsters knew the boy was going to come down the hill on his sleigh. However, they were ineffective in stopping the truck driver, who apparently was not driving at a fast or excessive rate of speed, but who did not hear the call of warning by the children. Various details concerning the accident are very much in dispute, as the affidavits which are presented show.

However, the driver of the mail truck on February 3, 1925, was charged with manslaughter before the New York City court and that court found that the evidence was insufficient to show culpable negligence on the part of the mail-truck driver.

It would appear to me that in view of the fact that in the House this afternoon we have been led, apparently, to go upon the findings of the Court of Claims and even pass bills here where the Court of Claims has declared there was nothing more involved than a donation or grant, that where the court has found that the Government employee was not guilty of culpable negligence, we should follow the court in that respect and not attempt to attribute negligence to the Post Office Department in having occasioned accidents. For this reason it appears to me it is only proper that relief should be denied in this case if the driver of the mail truck was not in any way negligent or in any way directly responsible for causing the accident.

Mr. DOWELL. Mr. Speaker, will the gentleman yield?

Mr. COSTELLO. I will be pleased to yield to the gentleman.

Mr. DOWELL. There is a wide difference between culpable negligence and negligence. It seems to me that this man might be acquitted of culpable negligence and at the same time might be liable for this damage. There is a wide difference between the terms, and conviction of a crime is entirely different from the collection of damages for negligence. I think the distinction is quite clear, and if that is the question involved, it seems to me this claim should be paid.

Mr. COSTELLO. My only contention is that the driver of the truck was not negligent. The real negligence was on the part of the children in allowing the sleigh to go out on the public streets, in front of oncoming cars, and more especially when the streets were covered with snow, with great probability of accidents of this sort taking place.

Mr. EBERHARTER. Mr. Speaker, I rise in opposition to the amendment.

The sponsor of the bill is out of the city and not able to be here this afternoon, and I shall endeavor to explain to the Members of the House as best I can the facts in this case.

There was a very heavy snow on this particular day, and it appears that a number of children were riding sleds in a private driveway. There were children out on the streets warning truck drivers and automobile drivers to stop their trucks or automobiles whenever one of the children was riding down this private driveway. This mail truck came along in a northerly direction, and at the same time an automobile was coming toward the point where the accident occurred in a southerly direction, and the children there warned the driver of the mail truck and also the driver of the automobile that was going in the other direction that there was a sleigh coming down this private driveway with these children on it. The mail-truck driver failed to stop, while the driver of the other automobile going in the other direction heeded the warning of the children and stopped. The mail truck collided, or the sleigh ran into the mail truck, and as a result this young child was injured and died the next day. He was only 12 years of age, and for this reason he is not presumed to have been negligent in this case.

The gentleman from California [Mr. COSTELLO] has stressed the fact that the court did not hold this mail-truck driver for manslaughter. That is altogether a different question. We do not claim that by passing favorably on this bill that the driver of the mail truck is to be considered as a criminal or as guilty of manslaughter, but we do claim he was negligent, and we also claim that whenever children are on the street, as is the custom in a busy city, warning the driver of an automobile or a truck that children are sleigh riding, the driver of an automobile or truck should stop.

These are the facts as presented to the committee, and the sum involved is only $2,500, and we believe the claim should be paid.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. EBERHARTER. I yield to the gentleman from Massachusetts.

Mr. McCORMACK. May I suggest to the gentleman that a child 12 years of age, under the law, is only expected to exercise the degree of care which a child of that age is capable of exercising, and that is not the degree of care expected of an adult person. Furthermore, the gentleman is absolutely correct that in criminal proceedings they must prove a man guilty beyond a reasonable doubt, while for manslaughter willful and reckless disregard must be proven, and in civil proceedings all you have to prove is mere negligence, although negligence in itself is not a crime.

Mr. EBERHARTER. I thank the gentleman very much for his statement.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. COSTELLO] to strike out the title.

The amendment was rejected.

The Clerk read as follows:

Title V—(H. R. 2789. For the relief of Cohen, Goldman & Co., Inc.) By Mr. PEYSER

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Cohen, Goldman & Co., Inc., out of any money in the Treasury not otherwise appropriated, the sum of $19,030.20, in full settlement of all claims against the Government growing out of contracts nos. 1325, 1645, 2299, 3220, and 4519N, and contracts supplementary thereto, for the manufacture during 1917 and 1918 of overcoats and uniforms for the United States Army.

With the following committee amendment:

Page 8, line 2, after the word "Army", change the period to a colon and add the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendment was agreed to.

Mr. COSTELLO. Mr. Speaker, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Page 7, beginning in line 14, strike out all of title V.

Mr. COSTELLO. Mr. Speaker, the present bill seeks to pay to Cohen, Goldman & Co. $19,030 for claims growing out of contracts for the manufacture of overcoats and uniforms during the years 1917 and 1918. The testimony in the case is quite voluminous. There are numerous items contained therein, and there are quite a number of different contentions on the part of the claimant as well as on the part of the War Department. At one time the War Department brought suit against Cohen, Goldman & Co. for $136,000. As an offset to that the claimant herein brought a counter claim for $40,000. However, the War Department, after attempting to gather together the necessary testimony to proceed with its action, finally came to the conclusion that it was not able to prove its case. In other words, the books of the company and the facts and details of the action were in the possession of Cohen, Goldman & Co., and it was quite a difficult matter for the War Department to obtain the necessary facts to sustain their action. For that reason the War Department dismissed the case which it had against the claimant herein.

The contract called for the making of these uniforms for the Army. Bonuses were provided for the production of uniforms within a less period of time than originally specified in the contract, and penalties were provided for delay. In addition, if the company saved cloth they were to receive a bonus, and if they used an excessive amount of cloth then they had to pay an additional cost. It is a rather difficult thing to go into the details of this case, and I think gentlemen will find, if they read the report, that the claimants overused the expensive types of cloth, 16-ounce Melton costing $2.65 a yard, to the extent of some 1,300 yards, while in the less expensive types of cloth there was a certain saving.

It seems to me that in going over the facts the Government actually had a valid claim against these claimants, but because of technicalities was unable to prove the case. On the other hand, it does not seem reasonable to me that we should turn around now and pay to this company the sum of $19,000 when, apparently, if the Government were in a position to prove its case it would be able to collect some five or six times the amount of money the claimant is trying to recover.

Mr. KENNEDY of Maryland. Is it not true that the Government did enter a counterclaim and later withdrew it?

Mr. COSTELLO. The Government brought the original suit and the claimant entered a counterclaim, and the Government dismissed its suit because it did not have the facts necessary to prove its claim. The statement of the War Department is that they are unqualifiedly opposed to this particular legislation. They say they do not believe that the claimant has a valid claim on the Government, and for that reason I urge that the House strike this title from the bill.

Mr. DOWELL. Will the gentleman please explain on what foundation the Government brought suit against the company?

Mr. COSTELLO. On the usage of materials, and things of that kind. It was difficult for the Government to prove it, because of the fact that the books and the details were in the control of the company itself. It is not thus possible for the Government to prove that the amount of cloth allegedly used by the company was actually used.

Mr. PETTENGILL. What interpretation does the gentleman put upon the attorney-fee clause? It says that not more than 10 percent shall be paid to any agent or attorney. If there were five attorneys, they could each get 10 percent, or a total of 50 percent, could they not?

Mr. KENNEDY of Maryland. That is the usual 10-percent clause.

Mr. PETTENGILL. What does it mean?

Mr. COSTELLO. I do not think it has any meaning, no matter how it is worded. Possibly other language should be used to clearly show that only 10 percent should be paid regardless of the number of the attorneys.

Mr. EBERHARTER. Mr. Speaker, I rise in the absence of the sponsor of the bill to state that if the membership would take time to read the report I think it would come to a different idea of what this bill purports to do. This bill is to pay out of the Treasury of the United States $19,000 to this company, and here is what the report says and what is proven by the facts. The Court of Claims heard this particular case and found that this company was entitled to this sum of money, nineteen thousand dollars and odd. However, because the claim was brought more than 6 years after the contracts were executed, the Court of Claims was helpless to order the Government to pay the money. The gentleman from California [Mr. COSTELLO] before called upon the membership to follow the ruling of the Court of Claims in a previous case. Here is a particular case where the Court of Claims has found a meritorious claim, but could not order the Government to pay the same simply because the statute of limitations had expired, and I feel that the membership should support this particular title because I believe we are justified in following the facts as found by the Court of Claims. The Court of Claims found this amount to be due from the Government to this particular company.

The SPEAKER. The question is on the motion of the gentleman from California [Mr. COSTELLO] to strike out the title.

The question was taken; and on a division (demanded by Mr. KENNEDY of Maryland) there were ayes 77 and noes 30.

So the motion was agreed to.

The Clerk read as follows:

Title VI—(H. R. 3426. For the relief of Rose McGirr.) By Mr. BLOOM

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Rose McGirr, of New York City, the sum of $2,500. Such sum shall be in full settlement of all claims against the United States on account of damages sustained by the said Rose McGirr, when she was struck and seriously injured by a motor vehicle of the Prohibition Bureau of the Treasury Department in New York City on May 16, 1929: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 8, line 19, after the word "and", strike out the word "seriously."

The committee amendment was agreed to.

The Clerk read as follows:

Title VII—(H. R. 4170. To carry out the findings of the Court of Claims in the case of the Union Iron Works.) By Mr. MCCORMACK

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated to the Union Iron Works the sum of $165,284.53 in full settlement of all claims against the United States for the difference between the actual cost of the construction of three torpedo-boat destroyers and the amount paid under the contract entered into for the building of said boats, as found by the Court of Claims and reported in Senate Document No. 78, Seventy-third Congress, first session.

With the following committee amendment:

Page 9, line 22, add the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof

shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendment was agreed to.

Mr. COCHRAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COCHRAN: On page 9, in line 10, strike out all of title VII.

Mr. COCHRAN. Mr. Speaker, I ask the Members of the House to read the title of this bill. The title reads:

To carry out the findings of the Court of Claims in the case of the Union Iron Works.

What are the findings of the Court of Claims? Turn to page 65 of the report and read the conclusion of law, which is as follows:

Upon the foregoing special findings of fact, which are made part of the judgment herein, the court decides, as a conclusion of law, that plaintiff is not entitled to recover, and its petition is dismissed.

Judgment is rendered against the plaintiff for the cost of printing the record herein, the amount thereof to be ascertained by the clerk and collected by him according to law, which amount is found to be $2,159.82.

The bill provides to pay to the Union Iron Works $165,284.53. Who can say that represents the findings of the court?

This bill grows out of some construction work done for the Navy Department, for which the Government paid prior to the turn of the century—to be exact, way back in 1898. I have opposed this claim on this floor for years. I know all the facts concerning the case, and I say without fear of contradiction that if you carry out the findings of the Court of Claims, all you have to do is to collect the cost of printing from the plaintiff, the Union Works, if that has not been paid.

The contract called for the construction of three vessels. The findings of the court show the Navy Department fixed the maximum or upset price at which bids would be considered after it had estimated the cost, and such price was intended to provide and usually allowed a fair return to the contractor for his work. The findings further show that previous to submitting its proposal the company had realized a material profit on the construction of naval vessels in the prices set by the Navy Department. I read from the findings:

Officers of the Navy Department believed that the prices fixed in the advertisement for the torpedo boats and torpedo-boat destroyers were fair and reasonable and that a profit would accrue to the builders.

The president of the plaintiff company, before submitting the proposal for the construction of these vessels, made inquiries at the Navy Department and was there informed that the upset price of $295,000 fixed for each boat would cover the cost and there should be also a profit.

Before final payment was made by the Navy Department the Union Iron Works, pursuant to a clause in the contract, executed a release whereby the corporation, for itself and its successors and assigns and its legal representatives, released and forever discharged the United States from any liability growing out of the contract.

I have gone over the case with extreme care, and I can find absolutely no justification for the payment of this money. I therefore, Mr. Speaker, hope that the House will not place its stamp of approval on this bill, but will vote for my motion striking the title from the bill, which, if it prevails, will save the taxpayers of this country $165,284.53.

Mr. McCORMACK. Mr. Speaker, I rise in opposition to the amendment.

The gentleman from Missouri refers to the findings of law of the Court of Claims. The Court of Claims always makes such findings of law. They make a finding of law against all claims. It is not the finding of law that we search for; it is the findings of fact. Every case that goes to the Court of Claims is decided by the Court of Claims against the claimant, as a matter of law, because that finding of law simply says there is no legal obligation on the part of the Government for which the Government could be sued. So when the Court of Claims makes a finding of law, that is the finding it makes in all cases. You will not find any case referred to the Court of Claims but what, as a matter of law, they find against it, but in accordance with the mandate of Congress they ascertain the facts.

Now, what are the facts in this case? The facts are that this company incurred this loss, this additional expense, at the request of the United States Government. Every Secretary of the Navy has recommended payment of it. The report of the committee and the report of the Court of Claims shows that the changes in the plans and specifications were made by the Navy Department from time to time as the work progressed.

Mr. COCHRAN. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. Not just now.

The report shows that each of these vessels, when completed, were 54 tons more than the original specifications called for, and that the Navy Department asked this company to make the changes. This company, cooperating with the Navy Department, spent its own money, and the Court of Claims has made a finding of fact that the extra money spent by this company was the money named in this bill.

Mr. COCHRAN. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. The facts are in favor of this company. Here is something further that has just been called to my attention in the opinion of the Court of Claims:

Whether plaintiff is to have relief from its loss, and the amount of relief, if any, is therefore solely within the wisdom and sound discretion of the Congress.

Mr. COCHRAN. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. Yes; I yield.

Mr. COCHRAN. Will the gentleman let me read the two sentences above that?

Mr. COCHRAN. Were the court to base its judgment on the merits, the petition would still have to be dismissed, since the facts show no breach of contract, and none is alleged. The plaintiff is not entitled to either legal or equitable relief. The claim is one for a gratuity.

Mr. McCORMACK. That is the finding of the Court of Claims in all cases. The Court of Claims in this case—and the gentleman cannot deny the fact that the Court of Claims has found that this company incurred extra expenses as a result of instructions of the Navy Department, changes of specifications. This is a case of legitimate business doing something for the Government at the Government's request.

Mr. COCHRAN. Why has not the court since 1898 found for the company, if it was legitimate?

[Here the gavel fell.]

The SPEAKER. The question is on the motion of the gentleman from Missouri.

The question was taken; and the Chair being in doubt, the House divided; and there were—yeas 65, nays 41.

Mr. McCORMACK. Mr. Speaker, I object to the vote on the ground there is not a quorum present, and make the point of order there is not a quorum present.

The SPEAKER. Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 172, nays 123, not voting 136, as follows:

[Roll No. 116]

YEAS—172

Aleshire	Carter	Ditter	Green
Allen, Del.	Cartwright	Dondero	Greever
Allen, Ill.	Chapman	Doughton	Griffith
Allen, La.	Church	Dowell	Griswold
Allen, Pa.	Clark, N. C.	Eicher	Gwynne
Arends	Claypool	Elliott	Halleck
Arnold	Cochran	Engel	Hancock, N. Y.
Bacon	Colden	Englebright	Harlan
Barden	Collins	Faddis	Harter
Beam	Cooley	Farley	Hildebrandt
Biermann	Cooper	Fish	Hill, Wash.
Binderup	Costello	Flannery	Hobbs
Boyer	Crawford	Fletcher	Honeyman
Brooks	Crowther	Ford, Miss.	Hope
Brown	DeMuth	Frey, Pa.	Jarrett
Buck	DeRouen	Gearhart	Jenkins, Ohio
Buckler, Minn.	Dies	Gehrmann	Johnson, Luther A.
Cannon, Mo.	Dirksen	Gray, Pa.	Johnson, Minn.

Johnson, Okla.	Maloney	Polk	Spence
Jones	Mapes	Ramsay	Steagall
Keller	Martin, Colo.	Rankin	Stefan
Kelly, Ill.	Massingale	Reed, Ill.	Taber
Kinzer	Meeks	Rees, Kans.	Tarver
Kleberg	Michener	Rich	Taylor, S. C.
Kniffin	Millard	Richards	Thom
Knutson	Mills	Rigney	Tobey
Kocialkowski	Mitchell, Tenn.	Robertson	Transue
Lambertson	Moser, Pa.	Robinson, Utah	Turner
Lamneck	Mott	Robsion, Ky.	Umstead
Lanham	Murdock, Ariz.	Romjue	Vincent, B. M.
Leavy	Murdock, Utah	Rutherford	Vinson, Fred M.
Lewis, Colo.	Nelson	Sauthoff	Wearin
Lord	O'Brien, Mich.	Schaefer, Ill.	West
Lucas	Pace	Schneider, Wis.	Whelchel
Luckey, Nebr.	Patman	Scott	White, Idaho
Ludlow	Patrick	Secrest	White, Ohio
Luecke, Mich.	Patterson	Seger	Whittington
McFarlane	Pearson	Shannon	Williams
McGehee	Peterson, Fla.	Smith, Conn.	Wolcott
McLaughlin	Peterson, Ga.	Smith, Maine	Wolfenden
McLean	Pettengill	Snell	Wolverton
McSweeney	Pierce	South	Wood
Mahon, Tex.	Poage	Sparkman	Woodruff

NAYS—123

Atkinson	Eberharter	Lanzetta	Reilly
Barry	Eckert	Larrabee	Rogers, Mass.
Bates	Evans	Lea	Sabath
Bell	Ferguson	Lesinski	Sacks
Bigelow	Fitzgerald	Long	Sadowski
Boehne	Flannagan	Luce	Sanders
Boileau	Gambrill	McAndrews	Schulte
Boland, Pa.	Garrett	McCormack	Shafer, Mich.
Boren	Gildea	McKeough	Shanley
Boykin	Gingery	McReynolds	Sheppard
Bradley	Goldsborough	Maas	Smith, Wash.
Carlson	Guyer	Mahon, S. C.	Snyder, Pa.
Case, S. Dak.	Hamilton	Martin, Mass.	Stack
Celler	Hart	Maverick	Sutphin
Champion	Havenner	Mead	Swope
Citron	Healey	Merritt	Thomas, Tex.
Clason	Higgins	O'Brien, Ill.	Thomason, Tex.
Coffee, Wash.	Hill, Okla.	O'Connell, R. I.	Thompson, Ill.
Crowe	Houston	O'Connor, N. Y.	Tinkham
Cullen	Hull	O'Day	Tolan
Daly	Hunter	O'Leary	Towey
Delaney	Izac	Oliver	Treadway
Dempsey	Jarman	O'Neill, N. J.	Vinson, Ga.
Dickstein	Jenks, N. H.	O'Toole	Wallgren
Dingell	Kelly, N. Y.	Palmisano	Walter
Dixon	Kennedy, Md.	Patton	Welch
Dockweiler	Kennedy, N. Y.	Powers	Wene
Dorsey	Kenney	Rabaut	Wigglesworth
Drew, Pa.	Keogh	Ramspeck	Wilcox
Drewry, Va.	Kramer	Randolph	Woodrum
Dunn	Kvale	Reece, Tenn.	

NOT VOTING—136

Amlie	Deen	Imhoff	Parsons
Anderson, Mo.	Disney	Jacobsen	Peyser
Andresen, Minn.	Douglas	Jenckes, Ind.	Pfeifer
Andrews	Doxey	Johnson, Lyndon	Phillips
Ashbrook	Driver	Johnson, W. Va.	Plumley
Beiter	Duncan	Kee	Quinn
Bernard	Eaton	Kerr	Rayburn
Bland	Edmiston	Kirwan	Reed, N. Y.
Bloom	Ellenbogen	Kitchens	Rogers, Okla.
Boylan, N. Y.	Fernandez	Kloeb	Ryan
Brewster	Fitzpatrick	Kopplemann	Schuetz
Buckley, N. Y.	Fleger	Lambeth	Scrugham
Bulwinkle	Forand	Lemke	Short
Burch	Ford, Calif.	Lewis, Md.	Simpson
Burdick	Fries, Ill.	McClellan	Sirovich
Byrne	Fuller	McGranery	Smith, Va.
Caldwell	Fulmer	McGrath	Smith, W. Va.
Cannon, Wis.	Gasque	McGroarty	Somers, N. Y.
Casey, Mass.	Gavagan	McMillan	Starnes
Chandler	Gifford	Magnuson	Sullivan
Clark, Idaho	Gilchrist	Mansfield	Sumners, Tex.
Cluett	Gray, Ind.	Mason	Sweeney
Coffee, Nebr.	Greenwood	May	Taylor, Colo.
Cole, Md.	Gregory	Miller	Taylor, Tenn.
Cole, N. Y.	Haines	Mitchell, Ill.	Teigan
Colmer	Hancock, N. C.	Mosier, Ohio	Terry
Cox	Harrington	Mouton	Thomas, N. J.
Cravens	Hartley	Nichols	Thurston
Creal	Hendricks	Norton	Voorhis
Crosby	Hennings	O'Connell, Mont.	Wadsworth
Crosser	Hill, Ala.	O'Connor, Mont.	Warren
Culkin	Hoffman	O'Malley	Weaver
Cummings	Holmes	O'Neal, Ky.	Withrow
Curley	Hook	Owen	Zimmerman

So the motion was agreed to.

The Clerk announced the following additional pairs:

Until further notice:

Mr. Cox with Mr. Holmes.
Mr. Kerr with Mr. Andrews.
Mr. Warren with Mr. Cluett.
Mr. Bland with Mr. Andresen of Minnesota.
Mr. Sumners of Texas with Mr. Burdick.
Mr. Dean with Mr. Douglas.

Mr. Hennings with Mr. Casey of Massachusetts.
Mr. Rayburn with Mr. Taylor of Tennessee.
Mr. Crosser with Mr. Short.
Mr. Fleger with Mr. Fries of Illinois.
Mr. May with Mr. Bernard.
Mr. Ashbrook with Mr. Colmer.
Mr. Gavagan with Mr. Mitchell of Illinois.
Mr. Bloom with Mr. Crosby.
Mr. Fuller with Mr. Reed of New York.
Mr. Pfeifer with Mr. Owen.
Mr. Boylan of New York with Mr. Hook.
Mr. Cole of Maryland with Mrs. Jenckes of Indiana.

Mr. PETERSON of Georgia changed his vote from "nay" to "yea."

Mr. DUNN changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

The doors were opened.

The Clerk read as follows:

Title VIII—(H. R. 5112. For the relief of Frank Lee Borney.) By Mr. SUMNERS of Texas

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $2,000 to Frank Lee Borney, in full settlement of all claims for damages against the Government of the United States for injuries sustained by the said Frank Lee Borney by reason of the explosion of a dynamite cap negligently left by Civil Works Administration workers where they were building a road near Red Oak, Tex., on or about February 23, 1934: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Committee amendment:

Page 10, line 11, after the words "sum of", strike out "$2,000" and insert in lieu thereof "$500."

The committee amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

Mr. COSTELLO. Mr. Speaker, I move to dispense with further calling of the Omnibus Private Claims Calendar.

The motion was agreed to.

EXTENSION OF REMARKS

Mr. SHAFER of Michigan asked and was given permission to revise and extend his own remarks in the RECORD.

Mr. TABER. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks and to insert therein a one-page article.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PURE FOOD AND DRUG LEGISLATION

Mr. COFFEE of Washington. Mr. Speaker, I ask unanimous consent to revise and extend my remarks at this point in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. COFFEE of Washington. Mr. Speaker, for the past 3½ years food and drug legislation has been pending before Congress. The weaknesses of the present law, passed in 1906, and a compromise measure even then, are well known. President Roosevelt in a message to Congress on March 22, 1935, has said:

It is time to make practical improvements. A measure is needed which will extend the controls formerly applicable only to labels to advertising also; which will extend protection to the trade in cosmetics; which will provide for a cooperative system and method of setting standards and for a system of inspection and enforcement to reassure consumers grown hesitant and doubtful; and which will

provide for a necessary flexibility in administration as products and conditions change.

Ample evidence exists to show the need for a new law. Many dangerous drugs are commonly used in patent medicines. The presence of most of these drugs does not, according to the present law, even have to be stated on the label. The consumer has no way of knowing when he is subjecting himself to the perils inherent in their use.

DINITROPHENOL

The past few years have shown an ever-increasing list of persons killed by dinitrophenol. In many more persons its use has resulted in cataracts of the eye, often so severe that complete blindness ensued. A year ago the American Medical Association reported that there were 23 reducing preparations on the market which contain dinitrophenol. A high-school girl can in some areas buy a package of Redusols, a dinitrophenol preparation, at the corner drug store. She is then equipped to embark on a course of self-medication with a drug which, even when taken under expert medical supervision, has caused death (Facts and Frauds in Woman's Hygiene).

STRYCHNINE

Strychnine is another highly toxic drug the presence of which does not have to be declared under the present law. In one 5-year period 75 children, most of them under 5 years of age, died in New York State alone of strychnine poisoning (The Home Medicine Cabinet). Laxative and tonic pills containing strychnine were responsible for the majority of these deaths and are the foremost cause of fatal poisoning among young children. Parents assume such preparations to be innocuous. They have no way of knowing that the chocolate or sugar coating of these pills, so attractive to children, covers sufficient strychnine that six or eight tablets accidentally eaten may constitute a lethal dose of poison for a small child.

AMIDOPYRINE

Amidopyrine is present in many headache remedies and other pain killers. The drug causes in people who are sensitive to it a baffling disease, agranulocytosis, marked by a sharp reduction of the white blood cells. More than 1,500 persons in the United States died from agranulocytosis during the 3-year period ending with 1934 (Consumer Union Reports, April 1937). Yet multitudinous preparations containing amidopyrine are being sold over drug-store counters throughout the land. The present law requires neither that the presence of the drug be stated nor that any warning be given concerning its dangerous character.

ACETANILIDE

Acetanilide is another drug which has proved deadly to many people. Deaths from it were reported as long ago as 1909 in a pamphlet put out by the Public Health Service (Harmfulness of Headache Mixtures, by Kebler, Morgan, and Rupp, Government Printing Office, 1909.) The use of remedies containing it has not infrequently caused permanent heart injury, anemia, and loss of memory. The Government publication mentioned stated that "in not a few cases the patients were reduced to a condition of invalidism." Over 20 patent medicines sold for headache, insomnia, and colds have been found to contain acetanilide (Facts and Frauds in Woman's Hygiene). Unlike the other drugs named, the present law does require that its presence be stated on the label. It does not, however, require that the label bear a warning regarding the dangerous character of the drug. The labels of many acetanilide-bearing nostrums carry the statement "Contains no narcotics", thus giving the false impression that the preparations are absolutely safe. The Food and Drug Administration is powerless to prevent such labeling under the existing law.

MANY DANGEROUS PATENT MEDICINES ARE ON THE MARKET

The sale of patent medicines containing dangerous drugs is but one example of the inadequacy of existing legislation. Many nostrums, innocuous in themselves, are frequently the indirect cause of death, because the present law provides for no regulation of advertising. Worthless concoctions are advertised as being able to cure such diseases as diabetes, cancer, kidney disease, and tuberculosis. The gullible or unfortunate accept such dishonest claims at their face value, and lives which might be saved by medical treatment are lost.

DISHONEST ADVERTISING IS RAMPANT—CRAZY WATER CRYSTALS

Members of the House, the dishonest way in which many remedies are advertised at the best results in an economic waste. According to the book American Chamber of Horrors, written by the chief educational officer of the Food and Drug Administration, Crazy Water Crystals are essentially Glauber's salt, a horse physic. A package of Crazy Water Crystals retails for $1. The same amount of Glauber's salt can be purchased for approximately 25 cents. Crazy Water Crystals have been advertised for rheumatism, constipation, functional stomach diseases, liver disorders, cystitis, diabetes, and Bright's disease.

COSMETIC ADULTERATION

Cosmetics are entirely outside the scope of the present law. As long as they are unregulated we may expect repetitions of tragedies which have occurred in the past. Women have been blinded for life by eyelash preparations, poisoned by hair dyes containing lead or one of the dangerous aniline dyes, disfigured and disabled by cosmetics containing mercury, a powerful poison.

JAM

Mr. Speaker, though it is in the field of drugs and cosmetics that the consumer takes the worst beating, he also needs much better protection of the food he eats. The distinctive name proviso exempts countless proprietary foodstuffs from all provisions of the present law except the requirement that no poisonous ingredient be added. For example, jam, which is not called jam, but sold under a distinctive name, need meet no requirements regarding fruit content—it may even be made of moldy fruit, yet the Food and Drug Administration is powerless to touch it.

CONSUMER GROUPS WANT GRADE LABELING

Mr. Speaker, the failure of the present law to establish grades for canned goods means that thousands of housewives each day pay grade A prices for grade C or even substandard canned goods. The interest shown by consumer groups in the grade-labeling provision of S. 1944, the so-called Tugwell bill, shows how urgently such a provision is needed and wanted by the public. Rising food prices make it more imperative than ever before that the consumer be provided the criteria necessary if he is to purchase food intelligently.

ADVERTISING SHOULD BE MADE TRUTHFUL

An outstanding weakness of the present law is its failure to provide for supervision of advertising. The Federal Food and Drug Administration has done notable work in forcing false and fraudulent claims to be removed from the labels of patent medicines and packaged foodstuffs. In many cases, however, the objectionable claims have been merely transferred to advertising.

Indeed much modern advertising is more dishonest and misleading in character than even the old-time labels. Advertising has become such an important factor in determining the buying habits of the public that the need for honest advertising, as well as for honest labeling, is now almost universally recognized.

LET US HAVE STRONG LAWS TO DEAL WITH THE PROBLEM

The need for new food and drug legislation is well established. The question of paramount importance is whether we shall pass a law even weaker in some respects than the existing act, or one which adequately protects the interests of the consuming public. S. 5, as it has passed the Senate, is weaker than the present law in some aspects which vitally affect public welfare. The power to make multiple seizures has been one of the most effective weapons the Food and Drug Administration could use against violators. This power is seriously impaired in S. 5. As the New York Times has pointed out editorially:

Under the Copeland bill multiple seizures are still possible, but the accused may demand trial in his home jurisdiction, where, if he happens to be an important manufacturer and the principal economic prop of a small town, conviction by a jury of his neighbors will be almost impossible. Consumers are more likely to receive the kind of court action to which they are entitled in the

districts where they live and have been harmed than in that of a distant manufacturer who may have transgressed the law.

I BELIEVE MY BILL, H. R. 5286, ANSWERS THE REQUIREMENTS

Mr. Speaker, I have introduced a bill, H. R. 5286, which affords the protection so urgently needed by the public. The main features of this bill are:

First. The establishment of a consumers' bureau in the Public Health Service.

Second. The registration of proprietary products.

Third. Informative labeling.

Fourth. Prevention of false or misleading advertising.

Fifth. An adequate budget.

Sixth. Health education, publicity, and scientific research.

REGISTRATION OF PROPRIETARY PRODUCTS

The registration of proprietary products is a measure definitely in the interest of public welfare. The registration provision of H. R. 5286 requires every manufacturer of a proprietary product to register with the Consumers Bureau, the agency set up to administer the act, the formula of his product, a statement of all claims to be made for it, and the name of the licensed pharmacist or chemist under whose supervision the product is manufactured. This feature would greatly simplify the whole procedure of enforcement. A product deleterious to health would be prevented from ever reaching the market since a certificate of registration would be denied if the product contained harmful ingredients.

THE PREVENTIVE FEATURE

This preventive feature is the main virtue of the bill. It would benefit all concerned. Public welfare would be better protected; the work of the enforcement agency both simplified and expedited; money would be saved for Government and business alike, since many long-drawn-out and expensive court cases would be eliminated. The soundness of preventing offenses rather than punishing them after they have been perpetrated is so obvious as to be incontrovertible.

The necessity of registering the name of the licensed pharmacist, chemist, or other technician under whose supervision a product is manufactured is apparent. Ruth de Forest Lamb in her book, American Chamber of Horrors, has told of Claude Bell, who, with only a graduate and scales for equipment, puts up in his own home a preparation for hay fever and asthma. The principal ingredient of the nostrum is potassium iodide, a drug which converts latent tuberculosis into an active form of the disease. Claude Bell has no scientific training. He left school after the eighth grade.

Ladies and gentlemen of the House, the background of many other patent medicines is probably no more reputable. This picture of an ignoramus dispensing medicine to the public detriment but his private profit is an incongruous one in our country, where scientific training and skill are supposedly held in high esteem. It is a picture which would be eliminated were H. R. 5286 to become law.

REVENUE RAISING MADE EASY

Another advantageous feature of the licensing plan is that it would provide a steady source of revenue for the bureau enforcing the act. Yet the cost to the individual manufacturer, an initial fee of $25 and $10 per year for renewal, would be so light as to impose a burden on no one. The Food and Drug Administration is continually handicapped by lack of funds. Its appropriation for the enforcement of the Food and Drugs Act is approximately $1,600,000, a sum which represents little over a penny for every person in the Nation. The Chief of the Administration, in his 1936 report, has pointed out that much necessary work is either inadequately performed or never undertaken because of insufficient funds. The means provided by H. R. 5286 of insuring an adequate budget for enforcement is simple, fair, and reliable.

INGREDIENTS AND THEIR PROPORTIONS SHOULD BY PRINTED ON THE LABEL

Another feature of H. R. 5286 in the interest of public welfare is the requirement that labels of proprietary foods, drugs, and cosmetics shall tell what ingredients are present and in what proportion, only spices, flavoring and perfuming agents being excepted. Such informative labeling has been demanded by consumer groups for years. The need for it is obvious. If a consumer is to use medicines intelligently, he must know what is in them. If a consumer is to spend his food dollar wisely, he must know what he is purchasing.

Mr. Speaker, the provisions of S. 5 only partially meet this need. Although S. 5 requires that the label of preparations containing two or more drugs list the active ingredients, it does not require that the proportions in which they are present be named except in the case of a few drugs considered particularly dangerous.

ALKA-SELTZER

Of how much aid, for example, would this provision of S. 5 be to a consumer who wants to know what he is taking when he downs a dose of that widely touted remedy—Alka-Seltzer? He would read the label and discover that Alka-Seltzer consists essentially of a mixture of aspirin, baking soda, and citric acid. Since innumerable car cards have vaunted the "alkalizing" effect of Alka-Seltzer, he would probably decide that an Alka-Seltzer tablet consists mainly of a dose of baking soda with a little aspirin thrown in. Actually it is just the other way around. Every Alka-Seltzer tablet contains 5.5 grains of aspirin, more than the amount in the usual aspirin tablet (Drug and Cosmetic Control, by Department of Investigation and Accounts, New York City). But if S. 5 goes into effect, the consumer will still have no way of knowing that.

OVALTINE

Nor would the type of informative labeling provided by S. 5 be of much help to the housewife who wishes to do her food purchasing intelligently. The manufacturer of Ovaltine, for example, could truthfully label his product as containing dried egg. A mother having difficulty in getting her child to eat the number of eggs prescribed by the doctor might decide that feeding him Ovaltine would be a good way to increase his egg consumption. S. 5 would not require the manufacturer to label Ovaltine so that users may know that the amount of dried egg it contains is very small indeed.

CHOCOLATE MALTED MILK

That part of the chamber of horrors prepared by the Food and Drug Administration to show the need for informative labeling of foodstuffs had an exhibit giving the composition of various brands of chocolate malted milk, a product used mainly in feeding children. Many of these chocolate malted milks contained much more sugar and cocoa than they did malted milk. If S. 5 were to become law, a mother would still have no way of knowing when she purchases such a product, whether she is paying malted milk prices for sugar and cocoa. Furthermore, it is a problem which not only affects her pocketbook but the nutrition of her children, for sugar, cocoa, and malted milk have widely different values in meeting the food needs of children. The right of farmers to know what they are feeding their stock is so well recognized that most States have laws requiring real informative labeling of feed for animals. Is the proper feeding of children less important than that of livestock?

FALSE ADVERTISING SHOULD BE ELIMINATED

Mr. Speaker, effective control of advertising is another measure which is imperative if consumer interests are to be protected, for advertising has become such a potent force that to a large degree it determines the buying habits of the Nation. The advertising provisions of S. 5 are lamentably weak. The Government may only seek an injunction in the courts to restrain the false advertising—no other penalty is provided. Consumers Union has pointed out in its March 1937 reports that—

> The practical meaning of this would be that an advertiser could "try anything once", and continue to try it for a long period while a hopelessly cumbersome enforcement machinery was being brought into action. No matter how great his falsifications, the advertiser would have nothing to fear except an admonishment to go forth and sin no more.

ADVERTISING CONTROL SHOULD BE VESTED IN THE ENFORCEMENT AGENCY

Ineffective as is the advertising control provided by S. 5, there has been a move still further to weaken it by entrusting the enforcement of this section of the bill to the Federal

Trade Commission. Representative CAROLINE O'DAY has admirably set forth in the Appendix of the CONGRESSIONAL RECORD, the reasons why control of advertising by the Federal Trade Commission would be highly unwise. This is an issue of such vital importance to consumers that it can hardly be overemphasized.

Mr. Speaker, the reasons why the regulation of advertising should rest with the enforcement agency are obvious. Advertising, as Mrs. O'DAY has pointed out, is but an extension of the label. In is obviously in the interest of economy and efficiency that the same agency which passes on labeling should also pass on advertising. In the past it has been necessary for the Food and Drug Administration to supply the Federal Trade Commission with technical material when the Commission wished to take action against false or misleading advertising. The necessity of two agencies dealing with the same material inevitably results in wasteful duplication of effort. Of greater importance, it results in the Federal Trade Commission, a body of people untrained in the medical field, passing on technical information, a situation which often works to the detriment of public welfare.

EXPERTS ARE FALLIBLE

Medicine, as every other profession, has its charlatans, and they are willing, for a price, to testify in support of even the worst patent medicines. Such evidence may be convincing to a layman, though an expert technician can quickly detect its fallaciousness. Ignorance of medical matters on the part of the special board of investigation of the Federal Trade Commission is the kindest interpretation that can be placed on its sanction of the advertising done for certain death-dealing nostrums.

CEASE-AND-DESIST ORDERS OF THE FEDERAL TRADE COMMISSION ARE FREQUENTLY IGNORED

The inadequacy of the Federal Trade Commission in protecting the interests of consumers is not a matter of conjecture. It is a matter of record. The February 11, 1937, issue of Advertising and Selling, a trade magazine, presents a gallery of cease-and-desist orders issued by the Commission and reproduces recent advertisments made for the products against which they were issued. This gallery could easily be enlarged by many other exhibits. It is apparent that cease-and-desist orders are regarded by industry as mere scraps of paper. They have no effect in stopping false and fraudulent advertising.

DELAYS ARE COMMON

Even if cease-and-desist orders were effective, relegating supervision of advertising to the Commission would still be highly undesirable from the consumer point of view. Mr. CHAPMAN, Mr. MAPES, and Mr. MERRITT have ably pointed out in the additional views of the 1936 report accompanying S. 5 that the actions of the Federal Trade Commission involve the lapse of many months and sometimes years, a period during which an offending manufacturer is unhampered in his dissemination of false information and claims.

As has been mentioned, the chief virtue of H. R. 5286, known as the consumers' union bill, is that it is a preventive measure. This holds true for false advertising. At the time of application for certificate of registration, a manufacturer must submit a statement of all the therapeutic, palliative, or other beneficial effects claimed or to be claimed for his product. If such claims cannot be substantiated by satisfactory evidence or authority, the certificate of registration is not granted. The simplicity and practicality of such a measure are apparent. Advertising would be effectively controlled without resort to long and expensive court proceedings. Worthless or vicious products could not be panned off on the poor, the gullible, and the ignorant while a cumbersome enforcement machinery was brought slowly into action, often too late to save needless suffering or death in the case of nostrums which are definitely dangerous.

PENALTIES IN H. R. 5286 ARE ADEQUATELY STRINGENT

The penalties set by H. R. 5286 for violation of the advertising provisions, while imposing no hardship on honest manufacturers, are sufficiently stringent to protect public welfare. Violations of this provision, as well as other provisions of the act, call for a public warning for the first minor offense, suspension of the certificate of registration for 1 month for a first major offense, suspension for 1 year for a second offense, and revocation of the certificate for a third offense.

I urge Congress to enact H. R. 5286.

The record of Congress the past 4 years in regard to food and drug legislation is one of which none of us can be proud. It will be a betrayal of our constituents' interests if we fail to pass a new law in the near future. It will be no less a betrayal if the new law is one which is little, if any, better than existing legislation, and even weaker in some respects. For that reason, I urge support of my H. R. 5286.

The SPEAKER. Under the previous order of the House, the gentleman from South Dakota [Mr. CASE] is recognized for 20 minutes.

THE COURT QUESTION AND CONSTITUTIONAL DEMOCRACY

Mr. CASE of South Dakota. Mr. Speaker, one question stalks behind every major move on Capitol Hill these days. It is this: What is to be done with the President's proposal to change the Supreme Court? It blocks action on other legislation. It delays adjournment. The struggle has taken one life. It threatens the health of others.

We had the original bill. A committee of the Congress, after 4 months of hearings and study, said:

> It is needless, futile, and dangerous. * * * It is a measure which should be so emphatically rejected that its parallel will never again be presented to the free representatives of the free people of America.

Now we have a so-called substitute and rumors of others. Of the whole business, last week we heard the respected chairman of the Judiciary Committee of the House, with his background of service here since 1913, say:

> It is unnecessary legislation.

Still the search goes on for some face-saving substitute. In all sincerity I want to say today that the life of either major party in America today is more important than the political record of any one man; and, further, that the American idea of a constitutional democracy or a republic, whichever term you prefer, is more important than the life of any political party.

And both the life of a major party and the endurance of constitutional democracy are endangered by the insistence on this legislation.

TWO SMOKE SCREENS AND TWO EMERGENCY PLEAS

The case for this proposal has been before the country under two smoke screens: A claim of usurped power by the courts, and talk of 5-to-4 decisions. And neither the original bill nor the substitutes do a thing about either matter.

The insistence upon action now is being urged on two emergency grounds: A so-called mandate to follow the President in every detail and the claim that some vast program of social legislation is imperiled unless the courts are changed. And neither of those things has any foundation in fact.

The truth is that this fight itself is the greatest bar today to completing the proper legislative program of this Congress. The truth is that America has more to fear from the destruction of constitutional democracy than it has from court decisions. And to these subjects I shall address my brief remarks.

The first smoke screen is the repeated allusion to some supposed "usurped power of the courts to pass on acts of Congress." Some people repeat that in ignorance, and some people repeat it who ought to know better.

WHAT THE CONSTITUTION SAYS

Section 1 of Article III says:

> The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish.

Section 2 says:

> The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made under their authority.

And article VI, section 2, says:

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land.

How can the English language be more explicit?

This Constitution and laws made in pursuance thereof shall be the supreme law of the land.

How can the courts be charged with more responsibility?

The judicial power shall extend to all cases in law arising under the Constitution and the laws of the United States.

During the debates of the Constitutional Convention it was once proposed to give the Supreme Court the right to share the right of original veto along with the Executive. But that idea was rejected on this argument by Mr. Gerry; as the Madison notes tell us:

Mr. Gerry doubts whether the judiciary ought to form a part of it as they will have a sufficient check against encroachment on their own department by their exposition of the laws, which involved a power of deciding on their constitutionality" (p. 147, Formation of the United States).

So the courts have never had an original veto. They never step out and say that a law is unconstitutional; but when someone feels substantially injured by a law and comes before the court, the judges lay the law down by the Constitution and merely say whether the law is in pursuance of the supreme law of the land or not.

In Marbury against Madison, Chief Justice Marshall said:

The Constitution is either a superior paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and like other acts, is alterable when the legislature shall please to alter it.

But the Constitution expressly reserved the right of amendment to the States and the people and provided a method for amendment. If the Constitution could be amended by legislative acts, this power of the people would mean nothing. In at least seven cases before the Constitution was framed, State courts had declared State laws to be contrary to State constitutions. The Federal Constitution was written with this background of accepted power in the courts.

The claim of a usurped power, moreover, overlooks the very necessity for the power. When laws conflict, what is the ruling law? When legislative acts conflict with the Constitution, which controls? When public officials harass citizens and violate their constitutional guaranties, who is to stop them if not the courts?

AND AS FOR 5-TO-4 DECISIONS

The second smoke screen is reference to 5-to-4 decisions and talk about the whim of one man deciding matters. Of course, it is not the whim of one man but the conclusions of five men in a close question. And whatever the situation, the proposals brought forward do nothing about changing that.

A court of 15 men can split 8 to 7, which is closer fractionally than 5 to 4. A court of 11 can split 6 to 5. And under the so-called substitute we will have Supreme Courts of 10, 12, and 14, so that they could split 5 to 5, 6 to 6, and 7 to 7. Then lower court judgments would stand by default; thus determination of constitutionality would be left finally to lower courts, where it does not properly rest.

Not only that, but New Deal legislation has been upheld by 5-to-4 decisions on more important matters than it has been let down. I refer to the Gold Clause cases.

Furthermore, the record shows that of 13 acts of Congress held unconstitutional in the period from 1934 to 1937, only 3 were by 5-to-4 decisions. In the same time 19 Federal acts were sustained—3 by 5-to-4 decisions, 2 had one adverse vote, and the others were sustained unanimously.

In the same time over 220 acts of Congress were set aside by Presidential veto, I might add, if we want really to see where one man sets aside the will of Congress.

During the same years 54 State acts were held unconstitutional, 36 of them unanimously and only 2 by 5-to-4 decisions. During the same time, of 87 State powers upheld, 78 were by unanimous decisions and only 6 by 5 to 4.

It is plain that the 5-to-4 question has been talked about out of all proportion to its importance and that the New Deal has won by 5 to 4 more than it has lost. Some questions are naturally close questions, and they will be, no matter how many judges you place on the bench.

The truth is that, despite the talk about usurped power and 5-to-4 decisions, the proposals before us do not change that situation one iota. The Supreme Court will still pass on the constitutionality of questions properly submitted to it, as it must, if we are to retain a constitutional democracy. This is not a usurped power but to take it away except by constitutional amendment would be usurpation.

The only way in which new judges can guarantee different decisions will be to agree to take orders on their decisions, an agreement which would violate their oath of office and disqualify them for service. If their decisions can be predicted by the one who appoints them, the President can get rid of 5-to-4 decisions, for one of the judges he aimed at has resigned.

So much for the smoke-screen excuses. The facts refute them and the proposals do nothing about them.

TURNING TO THE EMERGENCY PLEAS

But now we hear, "The 1936 election was a mandate. We have a responsibility."

No one can pretend that the 1936 election was any mandate whatsoever to attack the Supreme Court. The issue was raised in the campaign but was promptly and repeatedly denied by administration spokesmen from coast to coast. The people reelected the President, but not on any promise that he would convert the courts into echoes for the Executive voice.

This mandate argument is the last argument I ever expected to hear in America. It sounds like Hitler. But here it is being offered by men who call themselves Democrats.

If the American system of government means anything, it means that we have tried to establish a government in which the majority rules with a decent respect for the rights of minorities. That is why we have a Constitution, to insure that respect—and a Court to enforce it. Our system means that no party can ever get a mandate which will permit it to ride roughshod over the rights of minorities and individuals as guaranteed by the Constitution.

The history of free government is the story of man's struggle to free people from arbitrary power, whether that power rests on a personal army, an organized minority, or the mandate of a majority. Mob rule is not free government. As the inscription over the doorway at the Department of Justice Building says, "No free government can survive that is not based on the supremacy of law."

Personally, I care not whether you call our Government a republic or a constitutional democracy. Either term means a representative form of government, with the rights of the people protected in basic law. And there is all the difference in the world between that kind of government and a government that shifts with every changing wind. In the one you have order and safety and progress; in the other you have insecurity, reaction, and chaos.

We went to war to make the world "safe for democracy." A Member on this floor supporting these Court changes recently said, "I insist on the defense of democracy", meaning the election-mandate argument. The World War spawned, right and left, the kind of democracies he had in mind—democracies where today's vote surrenders blanket powers to popular leaders. Today those peoples have lost their courts, and their laws are the whims of one man. And those peoples are marching down that one-way road to war and revolution which every one-man government eventually travels. They have mistaken demagogy for democracy.

EVERY PRESIDENT WILL HAVE A MANDATE

Mr. Speaker, I do not approach this problem with any personal feeling against the author of the original proposals. I share with other people of this country an admiration for the courage with which he attacked the problems of the dismal day when he entered upon his duties. I share with them a gratitude for the help he has extended on many fronts of the depression. But I would be untrue to the people and I would confer no favor on him if I yielded my convictions on this subject.

I have not opposed what I thought was proper judicial reform. I voted for both the Sumners proposals to permit Supreme Court Judges to retire and to permit direct appeal in constitutional questions on motion of the Attorney General. But I cannot support any measure which proposes to make the courts mere ratifying echoes for the Executive voice. For, mark this, we cannot extend to one President the courtesy of a sympathetic, subjected Court and ever deny that courtesy to succeeding Presidents.

Every President hereafter will have his problems to solve. His champions will point to their mandate from the people. The machinery of justice will become but a camouflage for the Big Chief's club, and you will have one-man government—call it any name you will. It will only be demagogy, a mockery of democracy.

James Truslow Adams, one of America's outstanding students of history, in a letter under date of July 14, 1937, says:

> It is to my mind a travesty on democratic government to claim, because the President received 27,000,000 votes running on a platform which not only did not hint at this act but on the contrary disclaiming all intention of acting, except within both the letter and the spirit of the Constitution, that he received a mandate to do anything he liked. If that argument is sound, then any President who received a large majority would be entitled to become a dictator, revealing beforehand to neither the people nor party leaders what his intentions might be.

I beg of each one of you to look into the future 4, 8, 12, 16, or 20 years from now and ask yourself if you want to establish any such idea that the Executive is to command the courts.

WHAT LEGISLATION IS IN DANGER?

Finally, we are told that this program is needed or some vague program of social legislation will be imperiled.

Mr. Majority Leader, what are the social objectives that will be in danger? The people are alarmed by this argument. They have seen the Federal Government enter every activity of business and industrial life. They have seen Federal inspectors and investigators on farms and in factories. They have seen new employees swarm into county-seat towns until the average courthouse today has more persons holding commissions from Washington than are chosen by the local electors. What more is to come? What is the plan behind this plan? Is it so unconstitutional that the President must control the Court?

It is true that we live in a changing world. But constitutions, if they are for anything, are expressly for the safety of the people in times of confusion. When people cannot see the woods for the trees, they need the best guidance that has been evolved in the history of the race.

The editor of the New York Times, in Sunday's paper, says:

> The philosophies which seem to guide the fragments of civilization in their madly whirling courses are violent, or fatalistic, or confused. A madman's whim may drown a continent in blood. * * * But there is another emotion that may be growing, underground in the dictator-ruled countries, more openly in those that are still democratic—a resentment against regimentation, against the appeals to hate, against the hideous drumming-up of the instinct to kill.
>
> Surely the mass of mankind—or rather the multifarious, many millionfold individuals who make up that mass—want chiefly to be let alone to do their work, to love, have children, play, sleep easily at night. And surely this deep racial desire will not forever be frustrated. Surely there will be a turning of the bitter tide which has threatened to drown us; surely there will be an upsurge of a real humanity, and a resumption of that march toward the stars which began so long ago in the fens of northern Europe and on the plains of Egypt and Mesopotamia.

We all thrill to the cry of progress and new freedom. We all regret the lag between what we do and what we desire. But surely the experience of history is wiser than the excitement of today. When the nobles wrested the Magna Carta from King John they did not get all they wanted nor perhaps as much as they thought they got. But they broke into that old idea that the ruler was to be lawgiver, judge, and executioner. And people fighting for human freedom have pointed to the Magna Carta ever since. Today it is proposed that we shall reverse human progress and put the courts back into the hands of the Executive with such devices as will let him insure that their opinions will be satisfactory to him.

That is not the road to freedom; it is not the mark of progress; it is not true democracy. If the history of nations teaches anything, it teaches that rights of the people once yielded to rulers for good and gentle purposes are won back only by sacrifice and bloodshed. I do not question the motives of those who support these proposals, but I can plead with you that we shall not let this Congress be known as the Congress which put law, judgment, and execution back into the person of one man.

The tampering with words, the change of numbers, fail to destroy the menace of this measure. The substitution of the word "may" for the word "shall" in the substitute bill only increases the invitation to Executive domination of the Court. "Decide so-and-so, or else—." That is the effect of such a device. It means a club over the courts!

What possible piece of social legislation will be outlawed by the courts as now constituted that will compare in value with the cost of losing the independence of the judiciary? What step in social welfare can we not now take that is worth the surrender of our system of checks and balances?

THE PEOPLE SENSE THE DANGERS

Mr. Speaker, the people of America have recoiled from this proposal because they sense the inherent dangers in it. They may not be able to recite the page and the number, but they know that in the courts they have refuge against oppression by arbitrary power whether exercised by an organized minority or a temporary majority. They do not pretend to know the technicalities on which a Court may find one way in one case and apparently another way in a somewhat similar case, but they do know this: That where government merges the three branches of government—executive, legislative, and judicial—into one, that there liberty disappears!

In this day, elsewhere, they have seen courts become devices to wipe out those who disagree with the philosophy of those in power. Our people simply do not want to move in that direction.

The other day I received a letter from a man whom I know suffered from the depression. To get food for an invalid wife he resigned from a small position in party organization so that he could get on the relief rolls. He wrote me: "Do not let them take the courts. The people here are against it almost to a man—and every woman." I thrilled when I read those words, for I know the hardships those people have seen. "Almost to a man—and every woman." I read those words with some of the same surging pride I feel when I see gold-star mothers accept our poor praise on Memorial Day.

And then I got a post card from a woman one day. Just a 1-cent card, but on it she wrote, "As I understand it, he complains the Court won't cooperate." "But how", she asked, "how can a court cooperate with a litigant?"

There is a common sense in the common people, Mr. Speaker. I pray God that this body shall have as much in our deliberations on this matter. [Applause.]

The SPEAKER. Under a previous special order of the House, the gentleman from Missouri [Mr. SHANNON] is recognized for 20 minutes.

Mr. SHANNON. Mr. Speaker, I wish to read and comment upon a most enlightening telegram sent out on July 14, 1937, over the signature of one Frank E. Gannett. I am sure Mr. Gannett exercised care in selecting those to whom the telegram should be sent. Nevertheless he made a mistake when he sent one of the messages to that great man and eminent lawyer, Mr. Frank P. Walsh, who immediately made it public. The telegram reads:

NEW YORK, N. Y., *July 14, 1937.*

FRANK PATRICK WALSH,
70 Pine Street, New York:

Emergency appeal from Senators leading Court fight prompts this telegram. Immediate vote on Court packing bill would be dangerously close. Our committee is asked quickly to renew aggressive Nation-wide drive to assure defeat. Also requested to supply funds to distribute Senators' speeches to their constituents to offset reprisals by Farley machine.

If court battle is lost, next move will be to jam through pending bills setting up one-man rule over industry, agriculture, and labor. Our fight will build opposition to these other dictatorial measures.

Senator McCARRAN rose from sick bed, defied Farley's threat to end his political career, and appealed to Nation: "It is time for the people to rise in defense of their Government."

Will you respond to Senator's appeal with financial support? This committee has organization and material to reach immediately million key individuals.

Please mail check today to Sumner Gerard, treasurer, 205 East Forty-second Street, New York City. Senator ROBERT F. WAGNER now reported wavering; telegraph or write your protest to him.

FRANK E. GANNETT,
Chairman, National Committee to Uphold Constitutional Government.

He brazenly states that this telegram was sent in response to an emergency appeal from Senators opposing the administration.

Mr. Gannett and his committee have sent out tons of literature against the Court bill and other pending legislation. I hold in my hand several letters and bulletins issued by this superlobbyist. In one of the communications, dated April 20, 1937, Mr. Gannett said this:

Please watch your mail for addresses of Senators GLASS, BORAH, and WHEELER, and Congressman PETTENGILL coming to you under their frank. These or similar addresses are being mailed to 1,000,000 key individuals in cities and to 2,500,000 rural readers in pivotal States. They should go to all farmers. Thousands of workers in the city should receive them. The cost to print, address, and mail (under frank) is from one-half to nine-tenths of a cent each. We will send you 100 copies free.

He explained that the copies of these selected speeches would be sent in franked envelopes, and needed only be addressed and mailed, no postage required. Mr. Gannett is indeed very generous in his use of the franking privilege extended to Members of Congress.

Every phase of the Gannett vilifying campaign has been thought out to the minutest detail. Nothing is left to the imagination or intelligence of those receiving his propaganda. They are told what to read, they are told what to write, and they are told to whom to write it. But the crowning achievement of the Gannett brain is a printed letter, addressed to himself and attached to his communication of April 20, which he asks his readers to sign and mail to him. In this prepared reply Mr. Gannett has you say:

I agree with you that Louis J. Taber's speech is valuable reading for farmers and others.

He tells you to agree with him that Mr. Taber made a fine speech, whether you read it or not. He infers that he is working for the best interests of the farmers and for the best interests of labor. Yet in the telegram I have just read, which he sent to a select group, Mr. Gannett warns that the passage of the Court bill might be followed by the enactment of the pending agricultural and labor bills, adding that his fight would build opposition to these measures.

How can he be sincere in his claim that he is working for the farmers and for labor and at the same time appeal for funds to "build opposition" to the very measures designed to benefit these groups?

In his communication of April 20, as in all others sent out by him, Mr. Gannett closed with an urgent appeal for funds. He said:

To carry through effectively, this committee needs an additional $100,000. If you have already contributed what you can afford, please help enlist the support of friends and associates. Ask them to use the enclosed subscription blanks. Your personal help is needed. It will cost some sacrifice.

He wants you to sacrifice and to ask your friends and associates to sacrifice so that he may carry on his self-imposed task. And he enclosed several subscription blanks to simplify, as much as possible, the forwarding of contributions.

Another bulletin issued by the Gannett committee announced that speeches of the leaders opposing the Court bill had been electrically transcribed and were available to radio stations without charge. If the radio stations would just give the time, Gannett would furnish the "canned" music.

Let us examine briefly the history of this "kept" man of the barons of riches whose denunciations of all remedial legislation proposed by this administration are reverberating throughout the length and breadth of this land.

Frank E. Gannett is the man who, when he needed funds to finance four of the newspapers in his chain, obtained $2,000,000 from the International Paper Co. The International Paper Co. was a subsidiary of that immense trust, the International Paper & Power Co., and itself—the International Paper Co.—derived more than half of its income from utility holdings, as distinguished from its newsprint business. The funds so borrowed by Mr. Gannett were not repaid until after the exposure of the loans at public hearings in an investigation of the Federal Trade Commission. According to the Federal Trade Commission's report, made to Congress in 1934, the International Paper Co. held, in 1929, as security for the loan, $1,954,000 of notes and 400 shares of common stock of the Brooklyn Daily Eagle Corporation, as well as lesser amounts of securities or interests in other Gannett newspapers. The 400 shares of common stock of the Brooklyn Daily Eagle Corporation represented 40 percent of that corporation's outstanding common stock.

Hence it can be seen that Mr. Gannett is a product of the trusts. He is trust-made, trust-branded, trust-minded, and is in every sense a typical agent of the trusts. And yet he has the effrontery to list among the speeches he is sending out under frank one by Senator WILLIAM E. BORAH, a man who gained national prominence largely through his fight against trusts and monopolies. But perhaps we should not be too critical of Mr. Gannett's tactics, for, as the old proverb goes, even "the devil can cite Scripture for his purpose."

Gannett is a Republican in politics. He was a Vice-Presidential candidate at the Republican national convention in the last campaign, and was in the forefront in all activities leading up to the political obliteration of Alfred Landon.

I offer this verbal portrait of Gannett as a sort of bill of discovery, so that those who receive his printed matter may know the manner of man that he is. He and his organization are the legitimate offsprings of the Liberty League, operating under the misleading appellation "National Committee to Uphold Constitutional Government." And it is a political campaign that he is carrying on. Time after time in his letters he refers to the fact that he and his organization will carry forward into 1938 and 1940 the issues of today.

Let no one be led astray by the noisy pratings and intense activities of Mr. Gannett and his ilk. In all questions involving the welfare of mankind there is room enough for all citizens to participate; but it is not needed, it is not proper, that Citizen Gannett should sit at the head of the table. The MacGregor at the table should be the man who was overwhelmingly chosen by the people of this country to be their leader—Franklin D. Roosevelt. [Applause.]

Mr. KELLER. Will the gentleman yield for a question?

Mr. SHANNON. I yield to the gentleman from Illinois.

Mr. KELLER. Is this the same Gannett who is tax-dodging to the extent of $3,000,000 at the present time?

Mr. SHANNON. I am not familiar with that, so I could not answer the question.

Mr. KELLER. I understand that is the case.

Mr. SHANNON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. Under previous order of the House, the Chair recognizes the gentleman from New Jersey [Mr. McLEAN] for 20 minutes.

SIX-YEAR TERM FOR THE PRESIDENT

Mr. McLEAN. Mr. Speaker, ladies and gentlemen of the House, there is pending in the House a resolution introduced by me the purpose of which is to submit to the people an amendment to the Constitution providing that the President of the United States should be elected for a term of 6 years and be ineligible to succeed himself. The suggestion is not new. It gave the delegates who formulated the Constitution considerable difficulty in the Constitutional Convention, and cannot be said to have been finally settled by the adoption of the Constitution. It has been frequently discussed since

Washington was President, with more or less emphasis, according to the circumstances which brought the discussion about. It was much discussed after the campaign of 1932. In the heat of that campaign, President Hoover had been drawn from the White House to tour the country for political purposes. The public reaction was that it was inevitable that this should result in the neglect of his official duties at a time when his presence was needed at the Capital. There was sharp criticism, with agitation for some method that would prevent a recurrence of such a situation, and the single but longer term was offered as a solution.

A consideration of the question must have its political aspects, but it portends a reform in our system of Government of such importance that it can be set aside from partisan politics. In fact, all major political parties from time to time have favored the change, and the benefits to be derived make it one of the questions upon which all Americans, irrespective of political affiliations, should be able to agree.

In the preparation of these observations I have been generously assisted by Dr. Clarence R. Williams, a member of the Legislative Reference Service staff of the Library of Congress, who has summarized the proposals for a 6-year term in a statement entitled "A 6-Year Term for the President", from which I take the following historical facts:

The present plan under which our Presidents are elected for a term of 4 years with no restrictions upon their eligibility for subsequent service, except the precedent established by Washington in refusing a third term, was the plan finally determined upon by the Constitutional Convention after much discussion and compromise and in the face of profound differences of opinion. These differences of opinion were primarily due to what have been called "the compromises of the Constitution." These were three in number. The first, which concerns this discussion, dealt with the fundamental conflict between those who desired a strong central authority and those who feared the extension of Executive power. This was compromised by investing the President of the Republic with great powers, but for a limited term only, and by a complicated system of "checks and balances", whereby the exercise of his power was at divers points and in various ways subjected to the control of Congress or of the Senate, and how long this power should be invested in a single individual was the difficulty presented.

The first recorded action in the Convention was the resolution of Randolph, presented as a part of the Virginia plan on May 29, 1787, wherein it was proposed that the National Executive—

> Be chosen by the National Legislature for the term of ——— years, * * * and to be ineligible a second time.

It is important to note that, in considering the length of the term of the President and the matter of whether or not he should be eligible for reelection, the opinion of the delegates depended upon the mode of election. If the National Legislature was to choose the President, a long term with no reelection was favored by most. If the choice was by some other method, a short term with possibility of reelection was generally favored. This fact is usually overlooked in debates today. Charles Warren in his book, The Making of the Constitution, published in 1928, says (p. 365):

> Votes of the Federal Convention are quoted as if they represented an absolute expression of opinion of views as to the proper term of the Presidential office, whereas, in fact, they should be considered as expressing the views of such a term only in its relation to the specific mode of election which was being concurrently voted.

On June 2, when the mode of election was to be by the National Legislature, it was actually voted, and it was decided also, that the President should serve for 7 years and be ineligible for reelection. On July 17, the ineligibility for a second term was struck out, but in spite of an effort to change the term from 7 years, this was not agreed to (Hunt and Scott, Madison's Debates, pp. 271 and 274). On July 19, Luther Martin would reinstate ineligibility, but was defeated, but the term was made 6 years when election was to be by electors. On July 24 the Convention which had been favoring election of the President by electors went back to election by the National Legislature, which necessitated reconsideration of length of term and eligibility for reelection. Terms of 8, 11, 15, and 20 years were suggested, but not voted on and the following day, July 25, there were other proposals offered. On July 26, having already returned to the plan of choice by National Legislature, the Convention returned to the original proposal of Randolph and voted for 7 years and no reelection. Rotation in office was favored by our statesmen of the Revolution, and the Articles of Confederation allowed no Member of Congress to serve more than 3 years in any 6 years.

The report of the Committee on Detail proposed that the President should be elected by ballot of the National Legislature, but it did not specify whether by separate or joint ballot. If by joint ballot the small States would have less influence. This seems to have turned the thoughts of some to favor election by electors chosen by the people, which had been defeated June 2, adopted July 19, and rejected July 24. On August 24 Gouverneur Morris made a strong speech on the dangers of choice by the National Legislature and favored choice by electors chosen by the people. Five States voted for and six against the proposal of Morris.

The report of a committee on postponed matters, made on September 4, finally solved the difficult question of the method of the election of the President in favor of electors; but if no person received a majority, the Senate was to elect. The term of the President was to be 4 years, with no restrictions as to the eligibility for reelection. On September 6 the Convention was ready to decide the length of the term. An attempt was made to fix the term at 7 years, which was defeated, as was the proposal to fix it at 6 years. The 4-year term was suggested by the committee and accepted. If electors failed to choose, election was to be by the Senate. But, on the proposal of Roger Sherman, of Connecticut, this was changed to election by the House, but in such a choice each State should have but one vote. This was carried, only Delaware dissenting.

The mode of choosing the President has been called "the most difficult of solution of any of the tasks before the Convention", and Madison later confessed in a letter to George Hay, August 23, 1823, that the final arrangement—

> Took place in the latter stage of the session, and it was not exempt from a degree of hurrying influence produced by fatigue and impatience in all such bodies, though the degree was much less than usually prevails in them.

Nevertheless, Hamilton, in the Federalist (no. 78) spoke of it as—

> Almost the only part of the system of any consequence which * * * escaped without severe censure.

Even Richard Henry Lee, an ardent opponent of the Constitution, confessed "the election of both Vice President and President seems to be properly secured." But it remained in operation less than 20 years before being altered by the twelfth amendment.

The twelfth amendment came about as a result of a tie vote for President between Thomas Jefferson and Aaron Burr, over which a very bitter controversy arose, to be finally compromised by an arrangement between Jefferson and Alexander Hamilton whereby Hamilton furnished enough votes in the House of Representatives to elect Jefferson President, resulting in the election of Aaron Burr as Vice President, in return for Jefferson giving Hamilton sufficient support to enact his monetary program.

During the first century under the Constitution over 125 amendments were submitted to change the term of the President and to fix the period of eligibility. More than 50 of them proposed to fix the term at 6 years. In 1826 such an amendment was proposed for the first time by Hemphill, of Pennsylvania. At different subsequent periods this change was advocated. That the President should be ineligible for reelection was stipulated in all but 14 of these proposals. Over 90 proposed amendments would restrict a President to a single term. In each of his annual messages Andrew Jackson recommended to Congress an amendment restricting the eligibility of any person to one term of 4 or 6 years, but, as Jackson himself took a second term, his consistency was called in question (Niles Register, vol. XL, pp.

387–389). During the period of reconstruction, amendments were frequently presented making the President ineligible for a second term. In 1875 the House Committee on the Judiciary proposed the term of the President be 6 years, and he be ineligible to reelection, which came to a vote, but failed to receive the necessary two-thirds. In the next Congress the majority report of the Committee on the Judiciary favored 4 years, the minority 6, but both agreed on a single term. The highest vote for any of the proposed amendments in the House was 145 to 108. Amendments limiting the President to one term of 6 years were favorite propositions during the period just before 1889.

During the second century under the Constitution—prior to 1928—some 85 proposals regarding the term of office of the President and his eligibility for reelection have been offered. These were especially numerous in 1892–93 after Cleveland was up for reelection, and in 1912–13 after Roosevelt sought another term. Of the 14 amendments submitted at the Cleveland peak, 7 provided for a 6-year term with no reeligibility. During the Rooseveltian peak 16 of the 22 amendments offered a 6-year period with ineligibility for a second term. It is evident that a 6-year term with no reelection has been the most favored plan of late, being introduced no less than 63 times—before 1928. This proposal once passed the Senate after a long debate from March 11, 1912, extending through the elections of 1912 until February 1, 1913, when the Senate passed Senate Joint Resolution 78 by a vote of 47 to 23. The House referred it to its Committee on Judiciary, and it was not reported out before the close of the session. Herman V. Ames, Proposed Amendments to the Constitution of the United States During the First Century of Its History (1897), and M. A. Musmanno, Proposed Amendments to the Constitution, Seventieth Congress, second session, House Document No. 551 (1929), are interesting studies in this connection.

Notwithstanding all of the efforts that have been made to effect this suggested reform, the statesman of today is better able to determine it because of the actual experiences we have had since the beginning of the Government, many of them in recent times, but it takes some great crisis to bring the American people to a realization of many of their problems. We have been on the verge of such a situation many times which should give us cause to very seriously consider this proposal.

The country is entitled to the most efficient service that its servants can give. The physical and mental strain attributable to the complexity of our civilization and the magnitude of our affairs place a burden upon the encumbent of the Presidential office which would seem to be entirely too great for any individual to bear. Also, there would be greater inducement to statesmanship if the present system, with its temptation to influence one's judgment through political considerations in anticipation of reelection, were eliminated. It has been suggested, too, that by conserving the health of our Presidents we would have available in their retirement for the public service a group of men possessing the confidence and esteem of the people of the country with training and experience in national and international affairs.

In our own time I have observed four Presidents in political campaigns and have had occasion to observe the toll which physical strain is apt to take of men who labor under the terrific responsibilities of the Presidential office, and how the interest of the country might be jeopardized as a result.

During the political campaign of 1912 President Taft visited New Jersey. He was forced into a political campaign and compelled to tour the country; and when he arrived in my county he was incapable of making a public address, to say nothing of discharging his official duties. It so happened, however, that his defeat, after a 4-year term in the White House, was a blessing. He was subsequently appointed Chief Justice of the Supreme Court of the United States and served with distinction.

About the middle of his second term President Wilson was stricken while touring the country in the hope of obtaining support of his program for the League of Nations, and it is questionable whether from that time on for a period of almost 2 years he was capable of discharging the duties of President.

The sudden death of Mr. Coolidge came as no surprise to those who were familiar with the real reason why he "did not choose to run" again for President, and physicians attribute his physical condition to his service as President. The Philadelphia Record, on January 10, 1933, editorially, under the caption "Help Save Our Presidents", stated:

> Calvin Coolidge's father, Col. John Coolidge, died at 80. The Coolidges are a long-lived family, but Calvin Coolidge died at 60. Under normal conditions he might have had two decades of public service before him. What cut short his life? Those who have seen pictures of the smooth-faced man who went into the Presidency in 1923 and Coolidge's lined and wrinkled face when he went out in 1929 show that the cares of his high office played a great part in bringing on his untimely end.

When Mr. Hoover retired, a United Press writer made the observation that "4 years in the White House left their deep mark upon Herbert Hoover."

These illustrations ought to be sufficient to show the effect, the anxiety, and strain of the Presidential office has on men capable of attaining this high office, much of which would be eliminated if so much of the physical strain and anxiety incident to a campaign for reelection and the temptation to think and act along political lines were eliminated by placing the President in a position of dignity and freedom of action, which is impossible when the frailties of humankind are tempered with self-interest. The national policy would be strengthened by eliminating the reelection requirement.

Hon. Frank O. Lowden, former Governor of Illinois, and sagacious elder statesman, has given considerable thought to this subject. His views are fully set forth in an interview published in the New York Sun on February 6, 1933. Up to that time, for a period of 30 years, he had urged a change in the tenure of the Presidential and gubernatorial offices. Starting in 1906 Mr. Lowden, while a Member of Congress, introduced a resolution in three successive Congresses providing for a 6-year term for the President, and, when chosen Governor of Illinois in 1916, he at once let it be known that he was putting into practice his principles and would not seek a second term. He says:

> The Executive now aspires to a second term as an endorsement of his first. Denial of reelection is considered a rebuke. As a result, regardless of how high-minded or patriotic the President may be, this feeling of concern over reelection causes him to be influenced unconsciously in both appointments and policies, with a view of renomination and reelection. Experience has shown that a person who goes into office for a definite period will meet the duties that are laid upon him with better results than if his judgment is influenced by a desire for a second term.

Rabbi Silberfeld, who has occupied the pulpit of Temple B'nai Abraham in Newark, N. J., since 1902, in an article in the Newark Sunday Call approved the proposal in the following:

> I consider the office of President of the United States so august, so dignified, so imposing that I think it almost a sacrilege when that office is besmirched by personal attacks upon its incumbent. We must not forget that that office is undoubtedly the highest honor that could be bestowed upon any mortal being, that in his person the President of the United States represents the greatest, the most powerful, and most advanced nation on God's footstool, that he speaks in the name of 125,000,000 of freemen; and for the holder of that exalted office to be exposed to personal attack and abuse is most degrading to the office of the Presidency, and should not be tolerated even under the guise of free speech.
>
> Of course, the excuse for such vulgarity is that a President who runs for reelection is not only the President but also a candidate for the Presidency, and in this latter capacity he has to expect political attacks, which often trespass beyond the lines of decency and respect. And that is exactly what should be avoided if the reputation of democracy is to be preserved without stain or blemish. There is only one way how this could be accomplished, and that is by a constitutional provision that a President should not be eligible for reelection, and owing to the fact that it takes almost 4 years to familiarize oneself with the arduous duties and complicated responsibilities of the Presidency, the term of the President should be extended to 6 years, with no possibility for reelection. This solution has been suggested in many quarters before, and at every Presidential election it gains in strength.

Frank Kent, the famed political commentator, in an article in the Baltimore Sun of December 16, 1936, after reviewing many reasons for the change, said:

> Altogether there has been no period when the single term suggestion appeared so timely and so desirable; nor one when it seemed more certain to have public sentiment behind it.

The objectors to a change contend that a person serving under the proposed plan would be more susceptible to paying political debts during a single term, being without any limitation or restraint.

The strongest opponent of any change was President Wilson, who is given credit for having defeated it in 1913. At that time, as we have seen, a resolution providing for the necessary constitutional amendment had passed the Senate and was pending in the House of Representatives. Mr. Wilson made known his objection in a letter to Hon. A. Mitchell Palmer, then a Member of Congress, in which he said:

> Four years is too long a term for a President who is not a true spokesman for the people, who is imposed upon, and does not lead. It is too short a time for a President who is doing or attempting a great work of reform and who has not had time to finish it. To change the term to 6 years would be to increase the likelihood of its being too long without any assurance that it would in happy cases be long enough.

It seems to me that Mr. Wilson overlooked the fact that in our system of government we look to more than one source for limitation and restraint upon our various departments of Government. The whole idea of our Constitution is one of checks and balances.

We have seen from time to time how a biennial election of Congress has its effect in molding policies and administrative action to public opinion. This was the intention of the framers of the Constitution when the term of Congressmen was fixed at 2 years. Also we are a Government of principles and not of individuals, and principles of reform when put in motion, if sound, will find their fruition of their own force and power. A change of administration never has, and never will, retard rightful progress. A single 6-year term filled by an Executive who knows that he will not seek reelection will be more productive than two 4-year terms which involve all of the bargaining and compromise frequently resorted to with the hope of reelection. With a single term the health of the President will be conserved, his judgment will be uninfluenced by political consideration of self-interest. There will be no possibility of neglect of duties, such as must necessarily result when a President is involved and actually engaged in a political campaign. The public welfare demands that everything possible be done to relieve the President of physical and mental strain, and place him in a position where none other than consideration of the general good will control his motives and influence his actions.

I first introduced this resolution in the first session of the Seventy-third Congress, but to have pressed it at that time in the first term of the President and under conditions then existing would have weakened the merits of the proposal by the criticism that it was made entirely for political purposes. Now seems the opportune time for its consideration. Sufficient time has elapsed since the last campaign and the next is so far ahead that we could be in no better position for academic discussion, free from personal interest or political bias. The Senator from Nebraska [Mr. BURKE] has declared himself in favor of the suggestion and has introduced in the Senate the necessary legislation to bring it about. I have hoped that his political affiliation with the party in power might have advanced it and caused it to be presented to the people at this session of Congress.

I am firmly convinced that in course of time the need for this change in our system of government will be taken seriously and be adopted. I trust it will not come as a result of some tragedy in our public life. It will be my effort to convince my colleagues of its wisdom and continually press for appropriate action to bring it about.

PERMISSION TO ADDRESS THE HOUSE

Mr. FISH. Mr. Speaker, I ask unanimous consent to address the House for 3 minutes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. O'CONNOR of New York. Mr. Speaker, reserving the right to object, is this going to be a speech about a man named Gannett?

Mr. FISH. I think the gentleman should give me the time to defend him, because certain statements were made that were not accurate or fair to him, and I cannot let the statements go unanswered.

Mr. O'CONNOR of New York. I think it would take 3 hours to defend him.

Mr. FISH. I will do my best in 3 minutes.

Mr. O'CONNOR of New York. Mr. Speaker, at this late hour, I object.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. JACOBSEN, for today, on account of official business.

To Mr. HARLAN, for 10 days, on account of official business.

To Mr. HAINES, for 3 days, on account of attending funeral.

BILL PRESENTED TO THE PRESIDENT

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee did on July 16, 1937, present to the President, for his approval, a bill of the House of the following title:

H. R. 7493. An act making appropriations for the fiscal year ending June 30, 1938, for civil functions administered by the War Department, and for other purposes.

ADJOURNMENT

Mr. COSTELLO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 33 minutes p. m.) the House adjourned until tomorrow, Wednesday, July 21, 1937, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON IMMIGRATION AND NATURALIZATION

There will be a meeting of the Committee on Immigration and Naturalization on Wednesday, July 21, 1937, for the public consideration of S. 2416, H. R. 6663, H. R. 7647, and H. R. 7718, at 10:30 a. m.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

There will be a meeting of the Committee on Interstate and Foreign Commerce at 10 o'clock a. m. Wednesday, July 21, 1937, for the continuation of hearing on H. R. 6968, to amend the Securities Act of 1933.

There will be a meeting of the Research Subcommittee of the Committee on Interstate and Foreign Commerce at 10 a. m. Thursday, July 22, 1937. Business to be considered: Hearings on H. R. 1536, H. R. 5531, H. R. 7001, and H. R. 7643, research bills.

CHANGE OF REFERENCE

Under clause 2 of rule XXII, the Committee on Naval Affairs was discharged from the consideration of the bill (H. R. 7314) for the relief of Harvey J. Rowe, and the same was referred to the Committee on Military Affairs.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BOYER: A bill (H. R. 7929) to transfer custody of post-office building in District of Columbia from Interior Department to Post Office Department; to the Committee on Public Buildings and Grounds.

By Mr. CROWE: A bill (H. R. 7930) to provide for the refund or credit of tax and duty paid on spirits lost or rendered unmarketable by reason of the floods of 1936 and 1937 where such spirits were in the possession of the original taxpayer or rectifier for bottling or use in rectification under Government supervision as provided by law and regulations; to the Committee on Ways and Means.

By Mr. BULWINKLE: A bill (H. R. 7931) to provide for, foster, and aid in coordinating research relating to cancer, to establish the National Cancer Institute, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PALMISANO (by request): A bill (H. R. 7932) to provide for the transfer of United States property in the

District of Columbia to the government of the District of Columbia; to the Committee on the District of Columbia.

By Mr. SHEPPARD: A bill (H. R. 7933) to facilitate the control of soil erosion and/or flood damage originating upon lands within the exterior boundaries of the San Bernardino and Cleveland National Forests in Riverside County, Calif.; to the Committee on Agriculture.

By Mr. SMITH of Washington: A bill (H. R. 7934) to amend section 601 (c) (6) of the Revenue Act of 1932, as amended, with respect to the tax on imported lumber; to the Committee on Ways and Means.

By Mr. DOUGHTON: A bill (H. R. 7935) to amend certain administrative provisions of the Tariff Act of 1930, and for other purposes; to the Committee on Ways and Means.

By Mr. ATKINSON: A bill (H. R. 7936) creating the Franklin D. Roosevelt Foundation and a school for youth of the Americas to create good will between peoples of the Western Hemisphere; to the Committee on Education.

By Mr. FERGUSON: A bill (H. R. 7937) to provide for studies and plans for the development of reclamation projects on the North Canadian River in Oklahoma; to the Committee on Irrigation and Reclamation.

Also, a bill (H. R. 7938) to provide for studies and plans for the development of reclamation projects on the Washita River in Oklahoma; to the Committee on Irrigation and Reclamation.

By Mr. RANDOLPH: A bill (H. R. 7939) to provide for the promotion of the general welfare in relation to the economic effects flowing from scientific and technological developments; to the Committee on Interstate and Foreign Commerce.

By Mr. SECREST: Joint resolution (H. J. Res. 449) creating a commission for the erection of a memorial building to the memory of the veterans of the Civil War, to be known as the Ladies of the Grand Army of the Republic National Shrine Commission; to the Committee on the Library.

By Mr. BARRY: Concurrent resolution (H. Con. Res. 21) authorizing the printing of the report of the Subcommittee on Technology to the National Resources Committee entitled "Technological Trends and National Policy, Including the Social Implications of the New Inventions" as a document; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CARLSON: A bill (H. R. 7940) for the relief of John C. Cadwell; to the Committee on Claims.

By Mr. ELLIOTT: A bill (H. R. 7941) granting a pension to Mrs. William M. Weatherford; to the Committee on Invalid Pensions.

By Mr. FITZGERALD: A bill (H. R. 7942) for the relief of John McCraw; to the Committee on Claims.

By Mr. HEALEY: A bill (H. R. 7943) for the relief of George J. Wood; to the Committee on Naval Affairs.

Also, a bill (H. R. 7944) for the relief of Philip J. Leary; to the Committee on Naval Affairs.

Also, a bill (H. R. 7945) for the relief of Charles James Russell; to the Committee on Naval Affairs.

By Mr. JOHNSON of West Virginia: A bill (H. R. 7946) granting a pension to James R. Gibbs; to the Committee on Invalid Pensions.

By Mr. O'TOOLE: A bill (H. R. 7947) for the relief of James A. Ellsworth; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2964. By Mr. BEITER: Petition of the Niagara Frontier Planning Board, endorsing the proposal to improve the Erie Canal from Three Rivers to the Niagara River; to the Committee on Rivers and Harbors.

2965. Also, petition of the Niagara Frontier Planning Board, opposing the passage of House bills 7365 and 7392, being the Mansfield and Rankin bills, respectively; to the Committee on Rivers and Harbors.

2966. Also, petition of the Niagara Frontier Planning Board, endorsing the proposal to preserve and restore the beauty of Niagara Falls; to the Committee on Rivers and Harbors.

2967. Also, petition of the Niagara Frontier Planning Board, opposing the ratification by the United States Senate of the treaty for the construction of the St. Lawrence seaway; to the Committee on Foreign Affairs.

2968. By Mr. CLASON: Petition of George J. Gagnier and 133 others, favoring legislation to abolish the privately owned Federal Reserve System and to restore to Congress its constitutional right to coin and issue money, and regulate the value thereof; to the Committee on Coinage, Weights, and Measures.

2969. By Mr. CURLEY: Petition urging disapproval of House Joint Resolution 373, introduced by Congressman GRAY of Indiana, which seeks to amend the Constitution of the United States in relation to the term of a Justice of the Supreme Court; to the Committee on the Judiciary.

2970. Also, petition of the Kentucky Tuberculosis Association, Louisville, Ky., endorsing Senate Resolution 85, to accelerate the tuberculosis-control problem; to the Committee on Education.

2971. Also, petition of the Washington Real Estate Board, Inc., opposing House bill 7472, increasing real-estate taxes in the District of Columbia; to the Committee on the District of Columbia.

2972. Also, petition of the New York County Lawyers Association of New York City, recommending disapproval of House Joint Resolution 360, introduced by Mr. FERGUSON, to prevent the Supreme Court from declaring an act of Congress invalid except upon the concurrence of no less than seven of its members; to the Committee on the Judiciary.

2973. Also, petition of the Teachers Union, Local 453, American Federation of Teachers, endorsing the Allen-Schwellenbach bill; to the Committee on Labor.

2974. By Mr. FORD of California: Resolution of the Board of Supervisors of the County of Los Angeles, urging vigorous support of House bill 7186; to the Committee on Banking and Currency.

2975. By Mr. HILDEBRANDT: Petition of the Board of City Commissioners of Huron, S. Dak., urgently requesting that no decrease be made in the employment of clients on the Works Progress Administration rolls; to the Committee on Banking and Currency.

2976. By Mr. KEOGH: Petition of the Chamber of Commerce of the State of New York, New York City, regarding increasing personnel of the United States Supreme Court; to the Committee on the Judiciary.

2977. Also, petition of the Lily-Tulip Cup Corporation, New York City, concerning the McCarran bill (S. 2) and the Lea bill (H. R. 7273); to the Committee on Interstate and Foreign Commerce.

2978. Also, petition of the United States Junior Chamber of Commerce, concerning interstate air transportation; to the Committee on Interstate and Foreign Commerce.

2979. By Mr. MARTIN of Massachusetts: Petition of the Home Loan Defense Association, advocating passage of the Curley-Copeland bill; to the Committee on Banking and Currency.

2980. By Mr. O'NEILL of New Jersey: Petitions of the mayor of the city of Newark, N. J., Meyer C. Ellenstein; Lt. Richard Aldworth, of the State Aviation Commission of New Jersey; William Hildebrand, vice president, Thomas A. Edison Industries, West Orange, N. J.; the Interstate Airways Committee; Frederick Hoadley, Newark, N. J.; the American Insurance Co., Paul B. Sommers, president; Robert B. Colgate, Jersey City, N. J.; Christian Feigenspan Brewing Co., Edwin C. Feigenspan, vice president, petitioning Congress

for the passage of the McCarran-Lea bill regulating transportation by air carriers; to the Committee on Interstate and Foreign Commerce.

2981. By Mr. MERRITT: Resolution of the Queens-Nassau Home Builders League, Inc., recommending and advocating legislation which will empower the Federal Housing Administration to negotiate mortgages for a period of 30 years at 4-percent interest on a basis of 90 percent of the value of the property, thereby permitting contracts of purchase to be executed with cash down payments of 10 percent of the purchase price, annual amortization payments to be made over 30 instead of 20 years, and all monthly charges to be within the capacity of the budget of the average family; to the Committee on Banking and Currency.

2982. By Mr. PFEIFER: Petition of the Chamber of Commerce of the State of New York, New York City, concerning increase in personnel of the United States Supreme Court; to the Committee on the Judiciary.

2983. Also, petition of the Lily-Tulip Cup Corporation, New York City, concerning the McCarran bill (S. 2) and the Lea bill (H. R. 7273); to the Committee on Interstate and Foreign Commerce.

2984. By Mr. RICH: Petition of citizens of Williamsport and Jersey Shore, Pa., protesting against the erection of a monument to the memory of Robert Ingersoll in the Nation's Capital; to the Committee on the District of Columbia.

HOUSE OF REPRESENTATIVES

WEDNESDAY, JULY 21, 1937

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Gracious God, our Father in Heaven, incline our hearts to do Thy will. We thank Thee for sustaining faith and for the star of hope. We praise Thee for our Republic. Its genius assures every citizen the right to think his own thoughts, to enjoy the fruits of his own labors and to worship according to the dictates of his own conscience. We pray Thee that we may ever hold sacred these inalienable rights and guard them against all intrusions. We ask Thee, our Father, to help us cherish them in the teaching and in the spirit of our most holy faith. May we harmonize our thoughts with Thy thoughts, our ways with Thy ways, and submit our wills to Thine. Clothe us each day with the spirit of the golden rule: All things whatsoever ye would that men should do to you, do ye even so to them. In our Savior's name. Amen.

The Journal of the proceedings of yesterday was read and approved.

SPECIAL CLERK TO THE MINORITY

Mr. SNELL. Mr. Speaker, I offer a resolution and ask for its immediate consideration.

The Clerk read as follows:

House Resolution 281

Resolved, That under authority of the act making appropriations for the legislative establishment for the fiscal year 1938, George P. Darrow is hereby named a special clerk to the minority of the House as successor to Joseph G. Rodgers, deceased, effective July 13, 1937.

The resolution was agreed to.

EXTENSION OF REMARKS

Mr. CELLER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting a radio talk of mine over the Pan American radio station.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

BONNEVILLE DAM

Mr. PIERCE. Mr. Speaker, I ask unanimous consent to address the House for 4 minutes and to read a telegram from the Jackson Club of Portland, Oreg.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. PIERCE. Mr. Speaker, the telegram is dated Portland, Oreg., and reads as follows:

PORTLAND, OREG., *July 17, 1937.*

Hon. WALTER M. PIERCE,
House Office Building, Washington, D. C.:

Motion carried at regular monthly meeting, July 15, to send you the following, since you mention J. D. Ross, of Seattle, as Bonneville Dam administrator: Jackson Club of Oregon wishes to inquire which State you represent in Congress—Washington or Oregon?

CLAUDE KEMP, *President.*

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. PIERCE. I yield.

Mr. RANKIN. Who sent that telegram?

Mr. PIERCE. It is from the president of the Jackson Club in Portland, Oreg.

Mr. RANKIN. I do not know how the gentleman from Oregon feels about it, but, in my opinion, J. D. Ross is doing more for the cause of public power in this country and for the consumers who pay the bills than almost any other man in America. He is doing more for the people of the State of Oregon and will do more for the State of Oregon than will any of those men who are criticizing him. I hope, if this bill goes through—and I believe it will—I hope the President will do the State of Oregon and the State of Washington the kindness of putting J. D. Ross in charge of it.

Let me say further that I also hope the bill for unified control goes through, in order that when Mr. Ross takes charge, or whatever administrator may be appointed takes charge, he can go ahead and operate that great plant for the benefit of the people in the far West.

Mr. PIERCE. I thank the gentleman for his statement, especially with respect to unified control at Bonneville.

Mr. Speaker, my reply to this telegram is as follows:

WASHINGTON, D. C., *July 20, 1937.*

MR. CLAUDE KEMP,
President, Jackson Club, Portland, Oreg.

MY DEAR MR. KEMP: It certainly interests me to answer your amazing telegram of July 17, 1937, which you signed as president of the Jackson Club of Oregon. I do not know what called forth this telegram, unless it might have been a report in the press that when questioned I expressed confidence in Mr. J. D. Ross, who had been mentioned by the newspapers as the possible choice of the President for administrator at Bonneville.

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. PIERCE. I yield.

Mr. RANKIN. The gentleman states he does not know what brought forth that telegram. I think I know what brought it forth. There have been tools of the Power Trust lobbying against unified control ever since the Bonneville bill has been before the Committee on Rivers and Harbors. They are trying to get control of that power for a few interests in order to shut the door in the faces of the power consumers in the States of Oregon, Washington, Idaho, and the surrounding territory.

It is the old game of the Power Trust trying to get a monopoly of the power to be generated at one of these public projects. This is one time they are going to fail. We are going to save Bonneville for the people of that great western country.

Mr. PIERCE (reading):

I was a charter member of the Jackson Club of Oregon. Until I came to Congress I had missed only two annual meetings in a quarter of a century. I have a great affection for the club and its membership. I do not believe that a representative gathering of those members did make such an inquiry as that given in the telegram which I now quote. I am sending this letter to all the members of the Jackson Club, and want them to see the text of the telegram to which I am replying.

PORTLAND, OREG., *July 17, 1937.*

Motion carried at regular monthly meeting July 15 to send you the following, since you mention J. D. Ross, of Seattle, as Bonneville Dam administrator, Jackson Club of Oregon wishes to inquire which State you represent in Congress—Washington or Oregon.

CLAUDE KEMP, *President,*
1040 S. W. Washington.